



Guide to Name and Gender Changes for Pro Bono Attorneys

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Welcome

Thank you for agreeing to take a pro bono name and/or gender change case through FreeState Justice!

In the hopes of making this experience as easy and rewarding as possible, we have prepared this Guide to help walk you through the name and gender change processes. We'll cover why gender-affirming identity documents are critical to our clients, cover the governing law, describe how the name and gender change processes work, provide a how-to of the nuts and bolts of the processes, and offer advice on dealing with transgender clients.

Whether this is your first name and/or gender change case or your dozenth, we hope you'll find this guide helpful. (Notice something missing? Let us know!)

Why Identity Documents are so Important

For the last several years, name and gender change cases have represented the single largest category of cases clients come to FreeState Justice for help with. There's a simple reason for this: for many transgender people, having identity documents consistent with their gender identity is critical for navigating the world daily. They enhance safety, increase the ability to find and hold steady employment, and affirm the individual's human dignity.

We're asked for ID on an incredibly frequent basis: when traveling, renting a car, going out to a bar with friends, buying a bottle of wine or pack of cigarettes, filling a prescription at the pharmacy, picking up a package, visiting an office building, or even getting your ears pierced. IDs are also required when starting a new job, enrolling in school, opening a bank account, and accessing many government services. Having outdated ID that doesn't reflect your gender identity can put you at risk in every single one of these situations. And even if everything goes fine, there's constant stress from worrying about what *might* go wrong.

On top of this, gender incongruent ID also exposes you to a host of other negative experiences. Individuals are often denied employment or housing once their transgender status becomes known. Police interactions are more likely to end in arrest once the officer identifies you as transgender.

Without accurate and affirming ID, this world can be an incredibly hostile place.

This is why our name and gender change cases are so vitally important.

The Name Change Process at a Glance

At common law, people were largely free to adopt whatever name they liked, so long as it wasn't done for fraudulent purposes. *See Stuart v. Board of Supvrs. of Elections*, 266 Md. 440 (1972) **[Exhibit A2]**. But while common law name changes remain available, societal and legal changes have made them a poor option for many individuals who wish to adopt a different name. Increased security concerns, as well as legislation like the Real ID Act, have made it difficult (if not impossible) to change one's name with many organizations and on many forms of identification without a court order. Even for situations where a common law name change might be accepted under certain circumstances, a court order nearly always simplifies and speeds up the process. For better or for worse, a court order granting a name change is the gold standard.

Fortunately, the judicial name change process is fairly straightforward. In Maryland, adults seeking to change their name files a petition with the Circuit Court in their county of residence, submits a copy of their birth certificate or other document establishing their current name, and pays a filing fee. (Note: the fee is waived for most of FreeState Justice's clients.) Ordinarily, notice of the name change will then be published in a paper of general distribution in that county at an additional fee (generally between \$50 and \$150), and members of the public are then permitted to lodge any objections they might have with the court. Additional requirements apply to minors seeking to change their name, as discussed below.

Assuming no objections are filed, the court will then typically grant the name change. In the vast majority of cases, the petitioner will not be required to appear for a hearing. If no unexpected hurdles pop up along the way, the entire process can take as little as two months from filing, though waits are often longer in more populous counties/busier courts, where it can take six months or longer.

For individuals concerned about information about their name change becoming public, it is possible to request that the publication requirement be waived and/or that the case record be sealed. Courts and judges differ significantly on the frequency with which these motions are granted, however, and each can lengthen the amount of time it takes for the court to issue a final order granting the name change. Furthermore, even when publication is waived, courts often require notice to be posted at the courthouse and may charge an additional fee (typically \$40).

Once the name change is granted, the court clerk will send the petitioner or their attorney one or more certified copies of the court order. This court order can then be presented to the Social Security Administration ("SSA"), Motor Vehicle Administration ("MVA"), Division of Vital Records ("DVR"), Department of State, financial institutions, employers, etc., in order to change the petitioner's name on their respective records.

If any of that sounds confusing, don't worry! We'll walk you through the process in more detail below!

The Name Change Process in Maryland

Judicial name changes in Maryland are governed by Rule 15-901, Action for a Name Change, which sets out the procedure for name changes, except in the context of adoption or divorce **[Appendix A1]**.

The Petition

Under rule 15-901, an individual files a petition for change of name in the county where they reside. The petition, which must be under oath, is required to set forth:

1. The name, address, and date and place of birth of the individual whose name is being changed;
2. Whether that person has ever been known by any other name, as well as the circumstances under which they were used;
3. The new name the individual wishes to adopt;
4. The reason for the desired name change;
5. A statement that the name change is not being sought for an illegal or fraudulent purpose;
6. A statement of whether or not the individual has ever been required to register as a sex offender; and
7. If the individual is a minor, the names and addresses of their parents, guardians, or custodians.

Petitioners have the option, but are not required, to use state form DR 60, Petition for Change of Name (Adult) **[Appendix D1]** or DR 62, Petition for Change of Name (Minor) **[Appendix D4]**. Generally, however, FreeState Justice and attorneys on its pro bono panel instead use a separate template, which is attached as **Appendix C1** and is also available as an electronic template for ease of use.

The following documents should also be filed with the petition:

1. The filing fee or Statement in Support of Waiver of Prepaid Costs **[Appendix C7]** and Affidavit of Indigence and Facts **[Appendix C2]**;
2. A copy of the individual's birth certificate or other documentary evidence of the individual's current legal name, such as a driver's license or passport;
3. Draft notice for publication (e.g., DR 61, Notice (Adult) **[Appendix D3]**) OR a motion to waive publication **[Appendix C3]**, proposed order waiving publication **[Appendix C4]**, and draft notice for posting **[Appendix C5]**; and
4. Draft decree of name change **[Appendix C6]**.

Note that additional requirements apply to name changes for minors. If you have questions involving minor name changes, please contact FreeState Justice or consult Rule 15-901 and DRIN 62, Instructions for Change of Name of a Minor **[Appendix D5]**.

Publication

Under current law, notice of a requested name change must be published in a paper of general circulation, followed by a 15 day period in which others may file an objection to the petition with the court. Per Rule 15-901, however, the court is permitted, on motion from the petitioner, to waive the

publication requirement. FreeState Justice recommends motioning for a waiver of publication in most cases.

Unfortunately, courts differ dramatically on how frequently and on what grounds they are willing to grant waivers of publication, with some courts (e.g., Baltimore City) regularly waiving publication, while others (e.g., Baltimore County) regularly refuse to do so. Publication waivers are disfavored in case law, *see, e.g., Hardy v. Hardy*, 269 Md. 41 (1973) **[Appendix A3]**, 82 Op. Att’y Gen. 44 (Aug. 21, 1997) **[Appendix A4]**, which makes appealing waiver denials largely fruitless in most situations. (In addition, few clients are willing to wait the added time an appeal would take in order to obtain their name change order.) But, as the relevant precedents are fairly old and do not deal with transgender petitioners or the unique issues raised by their situations, appeal may be warranted under some circumstances. If you intend to appeal the denial of a publication waiver, please first consult with FreeState Justice to discuss the case.

In most cases where publication is waived, the court will instead order that notice of the proposed name change be posted at the court house for a period of 15 days. The court may or may not waive the fees associated with posting, typically \$40.

If publication is not waived, notice will need to be published in a paper of general distribution in the county of filing. Unfortunately, each county has its own list of approved newspapers and their own procedures for interacting with them: some counties will automatically transmit the notice of publication to the paper and automatically receive the certificate of publication from the paper after the notice has run; in other counties, the petitioner may be responsible for one or both of these things. Counsel is encouraged to reach out to the court clerk to verify that county’s procedures at or before the time of filing.

When the notice is published, look over it to ensure there are no errors. A misspelled name or other inaccurate information (e.g., the statement that an adult is a “minor child”) could delay things later. If the newspaper is relaying the certificate of publication directly to the court, be sure to check the case status regularly to verify that this has indeed happened. And, if possible, obtain a copy of the paper in which notice was published; if all else fails, you can prepare your own certificate of publication.

The Decision

Once notice has been published, posted, or, in the case of minors, served on non-custodial parents or guardians, there is a 15 day period during which third parties may file objections with the court. If an objection is filed, the petitioner has 15 additional days to file a response. Objections are vanishingly rare, with most exceptions being non-custodial parents objecting to a minor’s proposed name change. If an objection is filed in your case, contact FreeState Justice to discuss your options.

If no objections are filed, the court will typically rule on the petition without holding a hearing. If you believe circumstances warrant a hearing, as when a non-custodial parent has filed an objection, it is possible to request one.

In most cases, however, it is now just a matter of waiting. How long varies from court to court. But, eventually, you should receive notice that the order has been granted, as well as one or more certified or true test copies of the order.

Review the order carefully to verify that all information is correct. Some courts will retype the petitioner's name into a separate document, and may have misspelled either the former legal name or the new one. Other times, you might find a typo of your own that slipped through. Either way, you can file a motion to amend the order.

While many courts will automatically waive post-judgment costs if you submitted a request for waiver of prepaid costs, others will not. If you receive a bill, simply submit a motion to waive costs, referring back to the court's prior waiver of prepaid costs and the fact that the client was represented through FreeState Justice, an organization receiving funding through the Maryland Legal Services Corporation.

Next Steps

Upon receiving their court order, your client can take it to change their identity documents to their shiny new name. In most cases, clients are expected to handle these administrative changes themselves, though you are welcome to assist as you feel appropriate under the circumstances. (Some clients, for instance, may find the process of getting a new birth certificate confusing.) Either way, resources are available from FreeState Justice to help your clients through the next steps.

At this point, your role in the process usually comes to an end. You should now reach out to FreeState Justice's pro bono coordinator to let them know that the case is ready for closure. They will then send you the most up-to-date copy of the case closure forms **[Appendix H6]**. Return these and then bask in the joy of a job well done!

Introduction to Recognition of Gender Identity

While the process for changing one's name is fairly streamlined and straightforward – you need a court order and nothing else in almost all circumstances – changing one's gender marker on identity documents and in government databases is not nearly as streamlined. Instead, a hodge-podge of different rules governs, with different agencies within a single jurisdiction often demanding different documentation to make the same change. In some cases, jurisdictions simply refuse to change gender markers.

Because of this, a one-size-fits-all court order may not be the best option for everyone. Indeed, in many cases, it's not necessary at all and will simply make things take longer.

There are almost as many different standards for changing one's gender marker as there are agencies tracking gender, but they fall into a few broad categories:

- Self-attestation: individual may attest their own gender without providing any documentation
- Medical letter confirming generalized treatment: individual may change their gender marker upon presentation of an affidavit signed by a medical provider confirming that they are or have undergone treatment for gender dysphoria or to transition from one gender to another; treatment by a therapist may qualify in some circumstances
- Medical letter confirming surgical transition: individual may change their gender marker only upon presentation of an affidavit signed by a medical provider confirming that the individual has undergone surgery for the purpose of transitioning from one gender to another
- Court order: gender marker may only be changed upon presentation of a court order, which often must confirm that the individual has undergone surgery or some other specific treatment
- Prohibition on changing gender markers

With so many different standards, the question becomes which specific identity documents the client seeks to update. Unless the client specifically needs a court order, it will generally be faster and easier to advise the client on obtaining medical letters in order to change the most common identity documents.

In most cases, whether or not a client requires a court order recognizing their gender identity comes down to the question of where they were born. For individuals born in Maryland and other states with administrative options for changing a gender marker, the answer is typically no; for those born in states (such as Virginia or West Virginia) or foreign countries that do not, the answer is yes.

Nonbinary individuals face an additional problem: many jurisdictions and agencies currently refuse to recognize nonbinary genders at all. As such, in all too many cases, nonbinary individuals are simply unable to obtain a gender marker that fully recognizes them and their gender identity on many documents. Because of this, many nonbinary individuals may opt to change some identity documents, but not others, or may decide to use different gender markers in different situations. For more information, see **Appendix E4**.

Changing Gender Markers on Maryland IDs and Birth Certificates

Whether they were born in Maryland or elsewhere, practically all transgender individuals seeking FreeState Justice's help are interested in updating the gender marker on their driver's license or other state-issued ID card. Fortunately, since October 2019, this process is easier than ever. Now, individuals may self-attest their gender (including an X gender option for nonbinary individuals!) without being required to present a court order or medical affidavit. See **Appendix B1**. Note, however, that individuals who do not yet have a Real ID-compliant license or ID will be required to submit documentation to obtain one before they will be issued a corrected license with their updated gender marker. For more information, see **Appendix E1**.

In general, transgender individuals will need no assistance with obtaining a corrected driver's license. If for some reason, however, the Motor Vehicle Administration refuses to change an individual's license, please contact FreeState Justice. For indigent individuals who cannot afford the \$20 fee for a corrected driver's license, FreeState Justice may be able to assist with funds from our TransLAW grant.

Since 2015 [see **Appendix B1**], individuals born in Maryland have been able to change the gender on their birth certificates by submitting an Application for Change in Sex Designation on a Certificate of Live Birth [**Appendix E2**] to the Department of Health's Division of Vital Records, along with a signed Statement of License Health Care Practitioner (attached to Appendix E2) and a \$20 fee. The Statement may be signed by a physician, psychologist, nurse practitioner, or licensed clinical social worker, but may not be signed by a physician assistant.

For Maryland-born individuals wanting to change their name and gender marker on their birth certificate, the easiest and most straightforward method is to first obtain a court order for change of name, then submit a copy of the court order and the Application for Change in Sex Designation to the Division of Vital Records. This will allow both changes to be made at the same time for the same \$20 fee.

Unfortunately, at present the Division of Vital Records does not recognize nonbinary gender markers on Maryland birth certificates. FreeState Justice is actively working on this issue, so for most nonbinary Marylanders the best option may be to wait until X markers are also available on Maryland birth certificates, though a binary gender marker may be the best option for some individuals.

For more information on administratively changing the gender marker on a Maryland birth certificate, see **Appendix E3**.

Despite the availability of this administrative option, however, it may still make sense for some individuals to obtain a court order recognizing their gender identity. A court order may be necessary to update certain military records, for instance, or may be beneficial for incarcerated individuals whose gender identity is not being recognized by prison officials. If you believe a special circumstance may apply, talk to FreeState Justice about the possibility of filing a petition for a decree of legal gender identity (discussed below).

Changing Gender Markers on Non-Maryland Birth Certificates

Individuals born outside of Maryland wishing to update the gender marker on their birth certificates must comply with that state's requirements. While many states offer an administrative option for changing the gender marker on one's birth certificate, others do not. For an updated list of every state's requirements, see the [National Center for Transgender Equality's ID Documents Center](#).

Where a state requires a court order to change a birth certificate, pay special attention to the specific language needed. Some states require the court order to specify generalized or specific treatment (e.g., Virginia requires a court order stating that the individual's "sex has been changed by medical procedure"), while some states may require the court order to name a specific agency.

You will generally be told at the time of case assignment if you will need to file a petition for decree of legal gender identity for an individual not born in Maryland.

Changing Gender Markers on Common Federal Documents

In addition to state-issued identification documents, transgender individuals will often also want to update their gender on one or more federal documents, most commonly their Social Security record and their passport. Both of these may be changed without a court order, upon submission of a letter from a medical provider, but, unfortunately, each agency requires the letters to be in slightly different forms. At present, neither the SSA nor the Department of State recognizes nonbinary genders.

FreeState Justice and its pro bono panelists typically do not assist clients with obtaining federal identity documents. Instead, this information is provided to help you understand what the processes look like and to help you respond to client questions. If you believe a special situation applies, consult with FreeState Justice.

While there is not a gender marker on Social Security cards, the SSA does track gender in its database, which is cross-referenced and utilized by numerous other government agencies and some third parties. It is accessed, for instance, when employers run searched for employment eligibility, and a mismatched gender marker may return a null result. For this reason, transgender individuals are *strongly advised* to update their SSA gender marker. (For nonbinary individuals, their SSA gender marker should match the gender marker they give to their employers.)

The SSA accepts a variety of documents to support a gender marker change, including a letter from a physician (see **Appendix E5** for model language), an updated birth certificate, or a court order. Consult with FreeState Justice if you or your client has any questions about which may be best under the circumstances. Regardless of what documentation the individual opts for, they will also be required to submit a copy of Form SS-5, Application for a Social Security Card [**Appendix E6**], as well as evidence of identity and citizenship (e.g., a driver's license and birth certificate or passport).

While many individuals do not have a passport, they represent the gold standard of identity documents. They may be used to establish both identity and citizenship, replacing both a driver's license and birth certificate in many situations. Thus, for many individuals, a passport or passport card reflecting their correct name and gender identity may be the single best form of ID they can have.

Unfortunately, the process for changing the gender marker on a passport is more stringent. The Department of State currently accepts only a letter from a licensed physician stating that the individual has received appropriate clinical treatment for gender transition. (See **Appendix E5** for model language, which should be closely followed because the Department of State has rejected applications and even retroactively rescinded passports where they deemed the letter's language did not fully meet their requirements.) The Department of State will not accept any other form of documentation to support a gender change on a passport, not even a court order.

Regardless of whether the individual currently has a passport, they are required to submit Form DS-11, Application for a U.S. Passport [**Exhibit E7**], along with other required documents. Application must be made in person. Individuals cannot simply file a DS-82, Passport Renewal Application, as is permitted for individuals who have changed their name.

Individuals wanting to update the gender marker on their passport are encouraged to consult with FreeState Justice or review [NCTE's Know Your Rights – Passports page](#) for up-to-date information.

Filing a Petition for Decree of Legal Gender Identity

Under some circumstances, administrative options for updating the client's legal gender may be insufficient. In those cases, clients can take advantage of an equitable remedy available through the courts, outlined by the Court of Appeals in *In re Heilig* 372 Md. 692 (2003), **[Appendix B3]**. While the *Heilig* process is dated and severely flawed, it remains a vital option for many transgender Marylanders, especially those who were born or have birth certificates from states that will change the gender marker on a birth certificate without a court order.

The *In re Heilig* Process

Under *In re Heilig* **[Appendix B3]**, transgender Marylanders can petition the Circuit Courts for a Decree of Legal Gender Identity that recognizes who they are. Unfortunately, because the *Heilig* decision dates to 2003, well before transgender individuals in the United States received any form of broad cultural acceptance, the decision itself and the process it lays out are fundamentally flawed in a number of crucial ways. The opinion uses some dated and sometimes offensive language, misgenders the petitioner throughout the decision, and assumes/imposes a gender binary in a way that tacitly excludes nonbinary Marylanders. It also creates a judicial framework in which every petitioner is required to create the process anew through the submission of medical evidence.

The *Heilig* court did not establish a specific framework or bright line standard to be met for a court to legally recognize an individual's gender identity. Instead, the Court of Appeals stated it was "an evolving area," and held that circuit courts should follow the medical standard of care as established through admissible evidence. As such, those seeking to take advantage of the *Heilig* process must "present sufficient medical evidence of both the relevant criteria for determining gender and of the fact that, applying that criteria, [they have] completed a permanent and irreversible change" By necessity, then, petitioners must submit an affidavit from a medical provider that is more detailed than the letters or affidavits required for administrative remedies.

While FreeState Justice has developed templates, including draft language for provider affidavits referencing the World Professional Association for Transgender Health (WPATH) standards, the equitable nature of the remedy and the lack of specificity in the *Heilig* decision leave room for individual judges to push back on individual cases. Although hearings are uncommon, they are significantly more common than in name change cases, especially in more rural or conservative counties.

When Should You Use the *Heilig* Process?

While the *Heilig* process is dated and flawed and cumbersome, having a court order recognizing one's gender identity is a necessity in some cases, such as where a client was born in a state that specifically requires a court order in order to change a gender marker on a birth certificate. Decrees of legal gender identity may also be helpful in other circumstances, such as where an individual is incarcerated, where they are

at heightened risk of being committed to a mental health facility, or where other special circumstances apply.

In general, however, using the *Heilig* process to obtain a decree of legal gender identity will take longer than taking advantage of available administrative options. In addition to having to wait for the court's decision, it may take longer for medical providers to prepare a *Heilig* affidavit that it does to prepare form letters or paperwork for administrative gender changes, especially if they are not regularly engaged in transgender-related healthcare. These delays hold true even in cases where the petition for a decree of legal gender identity is filed at the same time as a petition for name change, as in many cases the name change filing is delayed until all documents for the *Heilig* petition are ready. Depending on your client's circumstances, it may make more sense to file the name change petition and then work with medical providers for paperwork for administrative gender changes while waiting for the name change order.

In the end, though, the question of whether a *Heilig* petition is appropriate is client-specific. You should get to know your client and base your advice on their needs and desires.

The *Heilig* Petition and Filing

As noted above, there are few set requirements for what must be filed in a *Heilig* petition. However, your filings should typically include:

1. The petition for a Decree of Legal Gender Identity **[Appendix F2 or G2]**;
2. A copy of the petitioner's birth certificate or other documentary evidence of their identity and current legal gender;
3. An affidavit from a medical provider **[Appendix F8 or G13]** signed by a physician, psychologist, nurse practitioner, or licensed clinical social worker, establishing:
 - a. the standard of care for transgender individuals and
 - b. the fact that the petitioner has been treated accordingly;
4. A motion for summary judgment **[Appendix F3 or G3]** and memorandum in support of summary judgment **[Appendix F4 or G4]**;
5. A draft decree of legal gender identity **[Appendix F5, F6, G10, or G11]**;
6. The filing fee or Statement in Support of Waiver of Prepaid Costs **[Appendix F9 or G14]** and Affidavit of Indigence and Facts **[Appendix F10 or G8]**; and
7. A motion to seal **[Appendix F1 or G1]** and draft order sealing the case **[Appendix F7 or G12]**.

The petition itself should lay out:

1. The name, address, date and place of birth, and assigned sex at birth of the petitioner;
2. The gender identity they wish to have legally recognized;
3. The fact that the petitioner has undergone appropriate treatment under the care of a licensed health practitioner for the purposes of transitioning to another gender;
4. A statement that this is a permanent change; and
5. Other information, such as prior name changes, that may be relevant to the court's decision.

FreeState Justice and attorneys on its pro bono panel are encouraged to use the petition templates, which are attached as **Appendices F2 and G2** and are also available as electronic templates for ease of use.

If your client was born in a state other than Maryland, be sure to verify the specific requirements to change their birth certificate before submitting the draft decree of legal gender identity. Some states require specific language, such as a finding that the client has undergone surgery or other procedure, or a paragraph directing the specific agency to issue a new birth certificate. Knowing the right language up front can reduce problems on the back end. For specific requirements in other jurisdictions, see the National Center for Transgender Equality's [ID Documents Center](#).

Note: For a variety of reasons, FreeState Justice does not generally petition for decrees of legal gender identity for minors. If you have questions relating to minor gender changes, please contact FreeState Justice.

The Decision

Once the case has been filed and all relevant documents have been submitted to the court, the waiting begins. In some cases, the waiting will be quite short, as the reviewing judge will already have everything they need to decide the case. Other times, however, things can take much longer; it largely depends on the court in which the case was filed and the docket of the judge to whom the case is assigned. And, if the judge has less experience with *Heilig* petitions or there are other special circumstances, a hearing may be scheduled, which could further delay the final decision.

Eventually, though, the court should issue a decree of legal gender identity, and within a few days, you should receive one or more certified or true test copies of the order.

As with name change orders, you should review the LGI order carefully to verify that all information is correct. Some courts will use their own orders, rather than the draft order you submitted, introducing opportunities for misspellings or other inaccuracies. Other times, you might find a typo of your own that slipped through. Either way, you can file a motion to amend the order.

While many courts will automatically waive post-judgment costs if you submitted a request for waiver of prepaid costs, others will not. If you receive a bill, simply submit a motion to waive costs, referring back to the court's prior waiver of prepaid costs and the fact that the client was represented through FreeState Justice, an organization receiving funding through the Maryland Legal Services Corporation.

Next Steps

After receiving their decree of legal gender identity, your client can use it when changing some, but not all, identity documents. The court order can be used in place of a medical provider's letter, affidavit, or signed form when changing the gender marker on a Maryland birth certificate and in the Social Security Administration's database, for instance, but *cannot* be used when changing the gender on one's passport. In most cases, it will be sufficient to change the gender marker on a passport issued by another state, but specific policies vary. Since October 2019, the Maryland Motor Vehicle Administration is prohibited from requiring documentation for individuals wishing to change their

gender marker, so individuals are not required to submit a court order or any other proof of gender identity when requesting an updated license.

Sealing Cases

Ordinarily, information about your client's cases is publicly available through the [Maryland Judiciary's Case Search database](#), as well as through in-person inspection at the courthouse where the case was filed. Unfortunately, this creates serious risks for many transgender individuals. Having information about a prior name change (especially where the former name effectively reveals the individual's transgender status) publicly available significantly increases the risk of employment and housing discrimination. In addition, having case information publicly available can increase the risk of violence, especially for individuals who have previously experienced domestic abuse. Many of FreeState Justice's clients have expressed concern over specific family members – often individuals they haven't spoken to for years – finding out about their name or gender change because they fear being targeted again.

For this reason, FreeState Justice strongly encourages motioning to seal the court record in all name and gender change cases involving transgender clients. While these motions are typically granted in legal gender identity cases due to the record including sensitive medical information, courts are inconsistent when it comes to name change cases.

Depending on the defendant's circumstances, it may make sense to file a motion to seal in name change cases after the final order is granted. In some courts, especially the Circuit Court for Baltimore City, sealing a case up-front can add significant delays, as only certain court personnel are able to access records. Sealing up-front can also make it more difficult to track case status in non-MDEC jurisdictions. Finally, many clients have experienced difficulty obtaining additional certified copies once a case has been sealed (regardless of the terms of the actual order). For these reasons, FreeState Justice often submits motions to seal *after* the client has obtained their copies of the final court order.

In other cases, however, it is imperative to seal a case up front. If the client has any particularized concerns about their safety, employment situation, or housing, FreeState Justice recommends motioning to seal the case at the time of filing. If, for example, a client is actively looking for employment or a place to live, the case filing could appear in background checks.

Although the Maryland courts provide a form, CC-DC-053, Motion to Seal or Otherwise Limit Inspection of a Case Record [**Appendix D10**], FreeState Justice does not recommend using it, as it provides insufficient space to properly explain why a case record should be sealed, and petitioners who have used it in name change cases have generally been unsuccessful. Instead, we provide general motion to seal templates for name change and legal gender identity cases that can be adapted to the particularized situation of your client. (See **Appendix C8, F1, and G1**.)

If a motion to seal is denied, you may want to file a motion to reconsider with additional information regarding the client's situation. If this, too, is rejected, you should consult with FreeState Justice about the possibility of appealing the decision.

Best Practices for Dealing with Transgender and Gender Nonconforming Clients

Here are some best practices that we have learned when representing our clients:

1. Don't make assumptions about someone's sexual orientation or gender identity. Doing so can end up alienating the client and creating an uncomfortable situation that was entirely avoidable.
2. If you offend a client for any reason, just apologize, change your behavior, and move on. It's as simple as that.
3. Before asking someone about their sexual orientation or gender identity, ask yourself if their answer is critical to the representation. It may not be necessary to do so.
4. Don't ask your client any questions about transition-related medical treatment unless it is relevant to their case. (In many cases, it won't be.) The client should control that conversation and the extent to which transition-related care is discussed.
5. Use the client's preferred name unless expressly required to do otherwise (e.g., in court filings). It may be necessary in some circumstances to list a legal name or former name, but where possible also refer to the client by their preferred name, e.g., "[Preferred name], formerly [legal name]."
6. Use the client's pronouns in all cases unless directed otherwise by the client. If necessary, add a footnote in court filings stating that the client uses X pronouns.
7. Respect confidentiality – do not disclose someone's sexual orientation or gender identity unless the person has given you express permission to do so AND it's necessary to do so.
8. Educate yourself about the transgender community, rather than expect your client to educate you. While you can ask your client about their experiences (when legally relevant), do not expect them to educate you on the broader community.
9. Recognize there is no single transgender experience. Everyone's experiences and transitions are different.
10. Connect people to resources – community is important.
11. Recognize how trauma may show up when engaging with clients. Your client may seem agitated or irritated when you speak with them. They may seem extremely distrustful of you. These behaviors are sometimes the result of trauma. Don't take it personally when clients struggle with their own life experiences. Remain committed to offering them a safe and open place to be themselves, even if being themselves shows up in an unfamiliar way.
12. If you do not know how to best handle a client interaction, please contact us. We are always here to help. If we don't know the answer, we will find someone else who does!

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Appendix A1

Rule 15-901, Action for a Name Change

[Home](#) [Table of Contents](#)**RULE 15-901. ACTION FOR CHANGE OF NAME**West's Annotated Code of Maryland
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MD Rules, Rule 15-901

RULE 15-901. ACTION FOR CHANGE OF NAME[Currentness](#)

(a) Applicability. This Rule applies to actions for change of name other than in connection with an adoption or divorce.

(b) Venue. An action for change of name shall be brought in the county where the person whose name is sought to be changed resides.

(c) Petition.

(1) *Contents.* The action for change of name shall be commenced by filing a petition captioned "In the Matter of ..." [stating the name of the person whose name is sought to be changed] "for change of name to ..." [stating the change of name desired]. The petition shall be under oath and shall contain at least the following information:

(A) the name, address, and date and place of birth of the person whose name is sought to be changed;

(B) whether the person whose name is sought to be changed has ever been known by any other name and, if so, the name or names and the circumstances under which they were used;

(C) the change of name desired;

(D) all reasons for the requested change;

(E) a certification that the petitioner is not requesting the name change for any illegal or fraudulent purpose;

(F) if the person whose name is sought to be changed is a minor, the names and addresses of that person's parents and any guardian or custodian; and

(G) whether the person whose name is sought to be changed has ever registered as a sexual offender and, if so, the full name(s) (including suffixes) under which the person was registered.

Cross reference: See Code, Criminal Procedure Article, § 11-705, which requires a registered sexual offender whose name has been changed by order of court to send written notice of the change to the Department of Public Safety and Correctional Services within seven days after the order is entered.

(2) *Documents to Be Attached to Petition.* The petitioner shall attach to the petition a copy of a birth certificate or other documentary evidence from which the court can find that the current name of the person whose name is sought to be changed is as alleged.

(d) Service of Petition--When Required. If the person whose name is sought to be changed is a minor, a copy of the petition, any attachments, and the notice issued pursuant to section (e) of this Rule shall be served upon that person's parents and any guardian or custodian in the manner provided by Rule 2-121. When proof is made by affidavit that good faith efforts to serve a parent, guardian, or custodian pursuant to Rule 2-121 (a) have not succeeded and that Rule 2-121 (b) is inapplicable or that service pursuant to that Rule is impracticable, the court may order that service may be made by (1) the publication required by subsection (e) (2) of this Rule and (2) mailing a copy of the petition, any attachments, and notice by first class mail to the last known address of the parent, guardian, or custodian to be served.

(e) Notice.

(1) *Issued by Clerk.* Upon the filing of the petition, the clerk shall sign and issue a notice that (A) includes the caption of the action, (B) describes the substance of the petition and the relief sought, and (C) states the latest date by which an objection to the petition may be filed.

(2) *Publication.* Unless the court on motion of the petitioner orders otherwise, the notice shall be published one time in a newspaper of general circulation in the county in which the action was pending at least fifteen days before the date specified in the notice for filing an objection to the petition. The petitioner shall thereafter file a certificate of publication.

(f) Objection to Petition. Any person may file an objection to the petition. The objection shall be filed within the time specified in the notice and shall be supported by an affidavit which sets forth the reasons for the objection. The affidavit shall be made on personal knowledge, shall set forth facts that would be admissible in evidence, and shall show affirmatively that the affiant is competent to testify to the matters stated in the affidavit. The objection and affidavit shall be served upon the petitioner in accordance with Rule 1-321. The petitioner may file a response within 15 days after being served with the objection and affidavit. A person desiring a hearing shall so request in the objection or response under the heading "Request for Hearing."

(g) Action by Court. After the time for filing objections and responses has expired, the court may hold a hearing or may rule on the petition without a hearing and shall enter an appropriate order, except that the court shall not deny the petition without a hearing if one was requested by the petitioner.

Source: This Rule is derived in part from former Rules BH70 through BH75 and is in part new.

Credits

[Adopted June 5, 1996, eff. Jan. 1, 1997. Amended April 5, 2005, eff. July 1, 2005; June 7, 2011, eff. July 1, 2011.]

Editors' Notes

HISTORICAL NOTES

2005 Orders

The April 5, 2005, order inserted subsec. (c)(1)(G); and inserted the cross reference following subsec. (c)(1).

2011 Orders

The June 7, 2011, order inserted "in which the action was pending" into the first sentence of section (c)(2).

Derivation:

Maryland Rule of Procedure BH70, adopted Sept. 15, 1961, eff. Jan. 1, 1962, related to petitions for change of name, rescinded June 5, 1996, eff. Jan. 1, 1997.

Maryland Rule of Procedure BH71, adopted Sept. 15, 1961, eff. Jan. 1, 1962, amended April 6, 1984, eff. July 1, 1984, related to venue for actions for change of name, rescinded June 5, 1996, eff. Jan. 1, 1997.

Maryland Rule of Procedure BH72, adopted Sept. 15, 1961, eff. Jan. 1, 1962, amended Feb. 7, 1975, eff. March 3, 1975; June 16, 1975, eff. July 1, 1975; April 6, 1984, eff. July 1, 1984, related to orders of publication, rescinded June 5, 1996, eff. Jan. 1, 1997.

Maryland Rule of Procedure BH73, adopted Sept. 15, 1961, eff. Jan. 1, 1962, amended April 6, 1984, eff. July 1, 1984, related to affidavits, rescinded June 5, 1996, eff. Jan. 1, 1997.

Maryland Rule of Procedure BH74, adopted Sept. 15, 1961, eff. Jan. 1, 1962, related to certificates of publication, rescinded June 5, 1996, eff. Jan. 1, 1997.

Maryland Rule of Procedure BH75, adopted Sept. 15, 1961, eff. Jan. 1, 1962, related to decrees, rescinded June 5, 1996, eff. Jan. 1, 1997.

MD Rules, Rule 15-901, MD R SPEC P Rule 15-901

Current with amendments received through November 15, 2019.

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Appendix A2

Stuart v. Board of Supvrs. of Elections,
266 Md. 440 (1972)

Stuart v. Board of Elections, 295 A.2d 223 (Md. 1972)

Court of Appeals of Maryland

Filed: October 9th, 1972

Precedential Status: Precedential

Citations: 295 A.2d 223, 266 Md. 440

Docket Number: [No. 105, September Term, 1972.]

Panel: [Wilson K. Barnes Sr.](#), [J Dudley Digges](#), [William J. McWilliams](#), [Robert C. Murphy](#), [Frederick J. Singley Jr.](#), [Marvin H. Smith](#)

Judges: Murphy, C.J., and Barnes, McWilliams, Singley, Smith and Digges

266 Md. 440 (1972)
295 A. 2d 223

STUART

v.

BOARD OF SUPERVISORS OF ELECTIONS FOR HOWARD COUNTY ET AL.

[No. 105, September Term, 1972.]

Court of Appeals of Maryland.

Decided October 9, 1972.

*441 The cause was argued before MURPHY, C.J., and BARNES, McWILLIAMS, SINGLEY, SMITH and DIGGES, JJ.

Arold H. Ripperger, with whom were *Ann Llewellyn McKenzie*, *Kathryn Scates Levedahl* and *Mary Ellen Brooke* on the brief, for appellant.

Amicus Curiae brief filed by The Women's Law Center, *Emma A. Clarke* on the brief.

Amicus Curiae brief filed by American Civil Liberties Union, *Ruth Bader Ginsburg*, *Melvin L. Wulf*, *Brenda Feigen Fasteau* and *Elsbeth L. Bothe* on the brief.

Amicus Curiae brief filed by Lorraine Alice Underwood and Dennis Lichti Albrecht, *Selma W. Samols* on the brief.

E. Stephen Derby, *Assistant Attorney General*, with whom were *Francis B. Burch*, *Attorney General*, and *Charles E. Hogg* on the brief, for appellees.

MURPHY, C.J., delivered the opinion of the Court. SMITH, J., dissents and filed a dissenting opinion at page 451 *infra*.

Mary Emily Stuart and Samuel H. Austell, Jr., were married in Virginia on November 13, 1971 and, shortly thereafter, took up residence in Columbia, Howard County, Maryland. In accordance with the couple's oral antenuptial agreement, Stuart continued, after the marriage, to use and be exclusively known by her birth given ("maiden") name and not by the legal surname of her husband.

*442 On March 2, 1972, Stuart undertook to register to vote in Howard County in her birth given name. After disclosing to the registrar that she was married to Austell but had

consistently and nonfraudulently used her maiden name, she was registered to vote in the name of Mary Emily Stuart.

On March 16, 1972 the Board of Supervisors of Elections for Howard County notified Stuart by letter that since under Maryland law "a woman's legal surname becomes that of her husband upon marriage," she was required by Maryland Code, Article 33, § 3-18 (c) to complete a "Request for Change of Name" form or her registration would be cancelled. Stuart did not complete the form and her registration was cancelled on April 4, 1972.

Stuart promptly challenged the Board's action by two petitions filed in the Circuit Court for Howard County, the first entitled "Petition to correct [the voter] registry," and the second "Petition to restore name to registry of voters in Howard County." In each petition Stuart maintained that she was properly registered to vote in her birth given name, that being her true and correct name; that under the English common law, in force in Maryland, a wife could assume the husband's name if she desired, or retain her own name, or be known by any other name she wished, so long as the name she used was not retained for a fraudulent purpose; and that since the only name she ever used was Mary Emily Stuart the Board had no right to cancel her voter registration listed in that name.

The petitions were consolidated and an evidentiary hearing was held before Judge T. Hunt Mayfield on May 8, 1972. Evidence was adduced showing that the oral antenuptial agreement between Stuart and Austell that she would retain her maiden name was a matter of great importance to both parties. Stuart testified that her marriage to Austell was "based on the idea that we're both equal individuals and our names symbolize that." There was evidence that prior to the marriage lawyers were *443 consulted on the parties' behalf who indicated that Stuart had the right to retain her own name after the marriage. Stuart testified, and Austell corroborated her testimony, that she would not have gotten married "if * * * [the marriage] would have jeopardized my name." She testified that after the marriage she continued to use her own name on charge accounts, on her driver's license and Social Security registration and in "every legal document I've ever had." "Everybody" she said, "knows me by the name Mary Stuart."

There was evidence showing that the practice of the Board requiring a married woman to use the surname of her husband dated back to 1936; that the practice was a uniform one throughout the State and was adopted to provide some trail of identification to prevent voter fraud; that if a married woman could register under different names the identification trail would be lost; and that the only exception permitted to the requirement that married women register under their husbands' surnames was if the name was changed by court order.

By opinion filed May 10, 1972, Judge Mayfield concluded "that a person may adopt and use any name chosen in the absence of fraudulent intent or purpose"; that the use by Stuart of her maiden name was without fraudulent intent or purpose; that it is the law of Maryland that "the use by the wife of the husband's surname following marriage, while the same may have been initially based upon custom and usage, is now based on the common law of England, which law has been duly adopted as the law of this State"; that

under the provisions of the Code, Article 33, § 3-18 (a) (3) clerks of courts, as therein designated, are required to notify Boards of Supervisors of Elections of the "present names" of females over the age of eighteen years residing within the State "whose names have been changed by marriage"; that by subsection (c) of § 3-18, the Boards, upon being advised of a "change of name by marriage," are required to give notification "that such * * * change of name by marriage * * * has been reported to the board, and shall require *444 the voter to show cause within two weeks * * * why his registration should not be cancelled"; that § 3-18 appeared "to be in conformity with the common law," as espoused in such cases as *People ex rel. Rago v. Lipsky*, 63 N.E.2d 642 (Ill. 1945) and *Forbush v. Wallace*, 341 F. Supp. 217 (M.D. Ala. 1971), *aff'd per curiam* 405 U.S. 970 (1972); that the "statutory requirements [of § 3-18] are in accordance with the law which says that upon marriage the wife takes the surname of her husband"; that the provisions of § 3-18 do not deprive Stuart of her right to use her maiden name, nor of her right to vote, but require only that she "register to vote under her 'legal' name, * * * based upon the broad general principle of the necessity for proper record keeping and the proper and most expedient way of identifying the person who desires to vote."^[1]

From the court's order denying her petitions to correct the voter registry and to restore her name thereto, Stuart has appealed. She claims on appeal, as she did below, that a woman's surname upon marriage does not become that of her husband by operation of the common law in force in Maryland and that nothing in the provisions of § 3-18 (a) (3) and (c) mandates a contrary result.

*445 What constitutes the correct legal name of a married woman under common law principles is a question which has occasioned a sharp split of authorities, crystallized in the conflicting cases of *State ex rel. Krupa v. Green*, 177 N.E.2d 616 (Ohio 1961), relied upon by Stuart, and *People ex rel. Rago v. Lipsky*, *supra*, adopted by the lower court as its principal authority for denying the petitions. *Green* approved the voter registration of a married woman in her birth given name which she had openly, notoriously and exclusively used subsequent to her marriage, and held that she could use that name as a candidate for public office. The court held:

"It is only *by custom*, in English speaking countries, that a woman, upon marriage, adopts the surname of her husband in place of the surname of her father." *Id.* at 619 (Emphasis in original.)

Lipsky refused to allow a married woman to remain registered to vote under her birth given name on the basis of

"* * * the long-established custom, policy and rule of the common law among English-speaking peoples whereby a woman's name is changed by marriage and her husband's surname becomes as *a matter of law* her surname." *Id.* at 645 (Emphasis supplied.)

Cases tending to support the rationale of *Green* are *Lane v. Duchac*, 41 N.W. 962, 965 (Wis. 1889); *Rice v. State*, 38 S.W. 801, 802 (Tex. 1897); *Succession of Kneipp*, 134 So. 376, 378 (La. 1931); *State ex rel. Bucher v. Brower*, 21 Ohio Op. 208 (Ohio 1941); *Wilty*

v. Jefferson Parish, [157 So. 2d 718](#), 727 (La. 1963) (Sanders, J., concurring). Cases tending to support the *Lipsky* theory are *Chapman v. Phoenix National Bank*, 85 N.Y. 437, 449 (N.Y. 1881); *In Re Kayaloff*, [9 F. Supp. 176](#) (S.D.N.Y. 1934); *Freeman v. Hawkins*, 14 S.W. 364, 365 (Tex. 1890); *Bacon v. Boston Elevated Ry. Co.*, 152 N.E. 35, 36 (Mass. 1926); *Wilty v. Jefferson Parish*, *supra*, *446 at 723-24 (Hamlin, J.); *Forbush v. Wallace*, *supra*, at 221-22.^[2]

We think the lower court was wrong in concluding that the principles enunciated in *Lipsky* represent the law of Maryland. We have heretofore unequivocally recognized the common law right of any person, absent a statute to the contrary, to "adopt any name by which he may become known, and by which he may transact business and execute contracts and sue or be sued." *Romans v. State*, [178 Md. 588](#), 597. In the context of the name used in an automobile liability insurance contract, we approved the consistent nonfraudulent use by a married woman of a surname other than that of her lawful husband in *Erie Insurance Exchange v. Lane*, 246 Md. 55. Citing with approval *Everett v. Standard Acc. Ins. Co.*, 187 P. 996 (Cal. App. 1919), we summarized its holding as follows:

"The court * * * held that because the insured had been known as Everett for twenty-two years before the policy was issued, a representation that his name was Everett was not a misrepresentation, although his name before had been Cowie, since a man may lawfully change his name without resorting to legal proceedings and by general usage or habit acquire another." *Erie* at 62-63.

If a married woman may lawfully adopt an assumed name (which, in *Erie*, was neither her birth given name nor the name of her lawful husband) without legal proceedings, then we think Maryland law manifestly permits a married woman to retain her birth given name by the *447 same procedure of consistent, nonfraudulent use following her marriage. In so concluding, we note that there is no statutory requirement in the Code, in either Article 62 (Marriages) or Article 45 (Husband and Wife), that a married woman adopt her husband's surname.^[3] Consistent with the common law principle referred to in the Maryland cases, we hold that a married woman's surname does not become that of her husband where, as here, she evidences a clear intent to consistently and nonfraudulently use her birth given name subsequent to her marriage. Thus, while under *Romans*, a married woman may choose to adopt the surname of her husband □ this being the long-standing custom and tradition which has resulted in the vast majority of married women adopting their husbands' surnames as their own □ the mere fact of the marriage does not, as a matter of law, operate to establish the custom and tradition of the majority as a rule of law binding upon all.

From a study of the English authorities cited to us by the parties and amici curiae, we believe the rule we enunciate today is founded upon the English common law incorporated into the laws of Maryland by Article 5 of the Maryland Declaration of Rights. The question of English common law was considered by the Ohio Court of Appeals in *State ex rel. Krupa v. Green*, *supra*, at 619:^[4]

"In England, from which came our customs with respect to names, a woman is permitted to retain her maiden surname upon marriage if she so desires.

"M. Turner-Samuels, in his book on 'The Law of Married Women' at page 345, states:

"In England, custom has long since ordained ^{*448} that a married woman takes her husband's name. This practice is not invariable; not compellable by law. * * * A wife may continue to use her maiden, married, or any other name she wishes to be known by. * * *"

He cites the following cases as authority for his statement: *Fendall v. Goldsmid* (1877) 2 P.D. 263; *Dancer v. Dancer* (1948) 2 All E.R. 731; *Chipchase v. Chipchase* (1939) P. 391; *Chipchase v. Chipchase* (1942) P. 37, distinguished; *Sullivan v. Sullivan* (1818) 2 *Hag.Con.* 238, 161 E.R. 728, 27 Digest 49, 279; *Wakefield v. Mackay* (1807) 1 *Hag.Con.* 394, 1 Phillim. 134, n."

Other English text writers have expressed a similar view of English law:

"In England (followed by the United States of America) practice has crept in, though apparently comparatively recently, for a woman upon marriage to merge her identity in that of her husband, and to substitute his name for her father's acquiring the new surname by repute." C. Ewen, *A History of Surnames of the British Isles* 391 (London 1931)

To the same effect see 19 Halsbury's Laws of England 829 (3d Ed. 1957):

"1350. Assumption by wife of husband's name. When a woman on her marriage assumes, as she usually does in England, the surname of her husband in substitution for her father's name, it may be said that she acquires a new name by repute. The change of name is in fact, rather than in law, a consequence of the marriage. * * *" (Footnotes omitted.)

Under the common law of Maryland, as derived from the common law of England, Mary Emily Stuart's surname ^{*449} thus has not been changed by operation of law to that of Austell solely by reason of her marriage to him. On the contrary, because of her exclusive, consistent, nonfraudulent use of her maiden name, she is entitled to use the name Mary Emily Stuart unless there is a statute to the contrary. *Romans v. State, supra*. We do not think that the provisions of Article 33, § 3-18 (a) (3) and (c), heretofore set forth, require that a married woman register to vote in the surname of her husband unless her name has been changed by legal proceedings under Maryland Rules BH70 □ BH75, and Article 16, § 123 of the Annotated Code of Maryland, as claimed by the Board. We are unable to attribute to that Section, even with the aid of a long-standing and uniform administrative practice, such an effect in derogation of the common law. See *MacBride v. Gulbro*, [247 Md. 727](#); *Gleaton v. State*, [235 Md. 271](#); *Mayor and City Council of Baltimore v. Baltimore Gas and Electric Company*, [232 Md. 123](#).^[5]

Nothing in the language of § 3-18 (a) (3) or (c) purports to compel *all* married women to register to vote in their husbands' surname. Since Mary Emily Stuart did not undergo a "change of name by marriage," this Section merely requires her to show cause to the Board that she consistently and nonfraudulently used her birth given name rather than her husband's surname following marriage. Although no show cause hearing was

held *450 in this case because, as found by the lower court, Stuart had difficulty in contacting the Chairman of the Board, two things are abundantly clear on the record before us: (1) that a show cause hearing, had one been held prior to the critical date specified by the Board, would not have resulted in the registration of Mary Emily Stuart in her maiden name, in light of the uniform practice of the Board, supported by an opinion of the Attorney General of Maryland dated April 7, 1971, and the statements of counsel for the Board at oral argument of the appeal; and (2) that Mary Stuart has amply demonstrated sufficient cause that her registration not be cancelled by proof adduced at the trial, and accepted by the court, that she has consistently and openly, with no intent to defraud, used the name Mary Emily Stuart as her sole and exclusive name after her marriage to Samuel Austell. In view of the impending closing of the voter registration books prior to the November 1972 election, we shall direct that the court below promptly order the Board to restore the name of Mary Emily Stuart to the registry of voters in Howard County. Of course, in so doing, the Board may make whatever cross-reference notation to the fact of Stuart's marriage to Austell that it thinks administratively feasible to meet the avowed needs of voter identification and prevention of dual registrations. See *State ex rel. Krupa v. Green*, *supra*, at 618.

In light of our disposition of the common law issue, we find it unnecessary to reach the constitutional issues raised by the appeal.

Order dismissing petitions vacated; case remanded for the passage of an order in accordance with this opinion; costs to be paid by appellees. Mandate to issue forthwith.

*451 *Smith, J., dissenting:*

I would affirm.

I do not see a constitutional issue in this case other than that of judicial legislation. The issue is not under what name one might prefer to permit a woman to register to vote, but what the General Assembly meant by "name" insofar as a married woman is concerned in its enactment of the laws relative to registration.

We start out with two bases, Article 8 of the Maryland Declaration of Rights providing "[t]hat the Legislative, Executive and Judicial powers of Government ought to be forever separate and distinct from each other," and the oft expressed doctrine that the construction placed upon a statute by administrative officials soon after its enactment is strong, persuasive influence in determining the judicial construction and should not be disregarded except for the strongest and most urgent reasons. *Williams v. Loyola College*, 257 Md. 316, 329, 263 A.2d 5 (1970); *F. & M. Schaefer v. Comptroller*, 255 Md. 211, 218, 257 A.2d 416 (1969); *John McShain, Inc. v. Comptroller*, 202 Md. 68, 73, 95 A.2d 473 (1953); and *Smith v. Higinbotham*, 187 Md. 115, 132-33, 48 A.2d 754 (1946). When the General Assembly revised the election laws by the enactment of Chapter 392 of the Acts of 1967 it eliminated from the statute a specific provision relative to name. However, there is included a form with "Last Name," "First Name" and "Middle Name or Initial" appearing on it. Code (1971 Repl. Vol.) Art. 33, § 3-13 (a) provides for prospective voters "to answer in the presence of the registrars all questions required on the

registration forms." The provision in Code (1957) Art. 33, § 23 (c) for entering "[t]he name and age of every applicant" is but little different from the requirement of Code (1939) Art. 33, § 19 that "[u]nder the column `Name'" should be entered "the name of the applicant, writing the surname first, and full given or Christian name after," which came into the Maryland law under § 15 of Chapter 22 of the Acts of 1882, apparently ^{*452} our first registration law, which became Code (1888) Art. 33, § 14.

Prior to the adoption of the 19th Amendment to the Constitution of the United States women were not permitted to vote in Maryland, *Leser v. Board of Registry*, [139 Md. 46, 114 A. 840](#) (1921), the provisions of Article 1, § 1 of the Constitution of Maryland limiting suffrage to males not having been eliminated until the adoption of a constitutional amendment by Maryland voters in 1956. It would seem that the General Assembly took special cognizance of women and their right to vote when it enacted Chapter 299 of the Acts of 1924, which became Code (1924) Art. 33, § 19, providing that "[a] female applicant for registration as a voter [should] not be required to state her exact age, but it [should] be sufficient for said applicant to state, in answer to any and all questions relating to her age, that she [would] be at least 21 years of age on the regular election day next succeeding the day of registration," a provision which remained in Article 33 until it was revised by Chapter 934 of the Acts of 1945. It chose to remain silent upon the subject of name, however, from which one might infer tacit approval of the prevailing practice.

In 1921, prior to the day of the so-called "permanent registration" now in effect, when a person once registered in a given election district or precinct could continue to vote there notwithstanding the fact that he might move to some other address in that election district or precinct, Attorney General Alexander Armstrong was asked whether a woman who had registered and voted the preceding year and had since married was entitled to vote at a coming or subsequent election under the name which she bore at the time of registration. In *6 Op. Att'y Gen. 188* (1921), he replied in the affirmative, saying that the only ground upon which the right to vote might be challenged was that the person offering to vote was not a registered voter of the district or precinct in which application was made. He further said:

"The case of a woman whose name has been ^{*453} changed by marriage is analogous to that of a person who has, since registration, changed his or her residence to some other residence within the district or precinct. In each of these instances no change of the registration books is necessary." *Id.* at 189.

It is interesting to note that in 1931 the Attorney General was asked to advise "as to the proper name to be used by a Catholic Sister or a Brother in a religious order when registering for voting purposes." In *16 Op. Att'y Gen. 144* (1931), he replied:

"The law requires the giving of the correct legal name, and until a person's name has been changed in the manner provided by law, this name should be given when applying for registration purposes." *Id.* at 144.

2 Bishop, *Marriage, Divorce and Separation* § 1622 (1891), states:

"The rule of law and custom is familiar, that marriage confers on the woman the husband's surname."

Like statements are to be found in 57 Am.Jur.2d *Name* § 9 (1971), relied upon by the trial judge, and 65 C.J.S. *Name* § 3c (1966). See also on the subject Annot., 35 A.L.R. 413 (1925).

In re Kayaloff, 9_F. Supp._176 (S.D.N.Y. 1934), is interesting in this regard. There a married woman was seeking naturalization. She was a musician "known professionally by her maiden name." She feared that she might possibly suffer financial loss if her naturalization certificate showed her surname to be that of her husband. She saw another problem in that a discrepancy would exist between her musical union card and her naturalization certificate. The court, after stating that "[t]he union card should conform to the naturalization certificate rather than that the latter should yield to the union card," said:

*454 "Under the law of New York, as pronounced in *Chapman v. Phoenix National Bank*, 85 N.Y. 437, a woman, at her marriage, takes the surname of her husband. 'That,' it was there said, 'becomes her legal name, and she ceases to be known by her maiden name. By that name she must sue and be sued, make and take grants and execute all legal documents. Her maiden surname is absolutely lost, and she ceases to be known thereby.'" *Id.* at 176.

The exact point here involved was before the court in *People v. Lipsky*, 327 Ill. App. 63, 63 N.E.2d 642 (1945). Antonia E. Rago, admitted to the bar of Illinois in 1938, married MacFarland in 1944. She was admitted to practice under the name of Rago in the federal courts in Chicago and before the Supreme Court of the United States, in addition to the Illinois courts. She practiced under the name of Rago. She claimed that her husband expressly approved of her plans to continue her practice of law and her other business affairs under the name of Rago. She sought to register under that name and challenged a provision of the Illinois law which provided that any registered voter who changed her name by marriage should "be required to register anew and authorize the cancellation of the previous registration." In holding that she was obliged to register under her married name, the court said:

"Notwithstanding petitioner's contention to the contrary, it is well settled by common-law principles and immemorial custom that a woman upon marriage abandons her maiden name and takes the husband's surname, with which is used her own given name." *Id.* at 67.

The courts in *Kayaloff* and in *Lipsky*, as have many of the authorities, relied upon *Chapman v. Phoenix Nat'l Bank of City of New York*, 85 N.Y. 437 (1881). There Verina S. Moore had married a man by the name of Chapman. *455 The question actually before the court was the propriety of notice given after her marriage to an individual described as "Ver. S. Moore." The court there said:

"Her name was then, and for more than three years had been, Verina S. Chapman. For several centuries, by the common law among all English speaking people, a

woman, upon her marriage, takes her husband's surname. That becomes her legal name, and she ceases to be known by her maiden name. By that name she must sue and be sued, make and take grants and execute all legal documents. Her maiden surname is absolutely lost, and she ceases to be known thereby." *Id.* at 449.

I am not impressed by the comment, citing *Romans v. State*, [178 Md. 588](#), 597, [16 A.2d 642](#) (1940), that a person has a common law right, absent a statute to the contrary, to "adopt any name by which he may become known, and by which he may transact business and execute contracts and sue or be sued." Rather, the question is, as I see it, what the General Assembly meant in the registration laws when "name" was mentioned.

It is conceded by all concerned that the uniform practice in Maryland has been for a married woman to register under the surname of her husband. This is in accordance with what I understand to be the authorities on the subject of name. It certainly is in accordance with custom. Therefore, I believe that to permit a married woman to register under a surname other than that of her husband she must either go through the process of having her name changed or the General Assembly must so provide. A holding to the contrary is in my humble opinion judicial legislation which is forbidden by the Maryland Declaration of Rights.

NOTES

[1] In pertinent part, § 3-18 (a) (3) and (c) provides:

"(a) *Reports to be made by certain public agencies.* □ Reports to the board shall be made by the several officials in Baltimore City at least once each month, and in the several counties, by the last days of January and July in each year, as follows:

* * *

"(3) The clerk of the Court of Common Pleas in Baltimore City and the clerk of the circuit court for each county shall file with said respective boards the former and present names of all female residents of said city or county, as the case may be, over the age of eighteen years, whose names have been changed by marriage since the date of the last such report.

* * *

"(c) *Notification to show cause before cancellation.* □ Whenever the * * * change of name by marriage * * * is reported as above provided, the board shall cause to be mailed to the address of such voter * * * a notification that such * * * change of name by marriage * * * has been reported to the board, and shall require the voter to show cause within two weeks * * * why his registration should not be cancelled. * * *"

[2] The three-judge District Court in *Forbush* upheld the constitutionality of the Alabama regulation, based on Alabama case law, that a married woman's legal surname is that of her husband, requiring that she use her husband's surname in obtaining a driver's license. The Supreme Court's affirmance was without opinion and since it was based upon

Alabama common law, differing from that of Maryland, it is not constitutional authority binding upon us in applying the common law rule in force in Maryland.

[3] Compare Hawaii Rev. Stat., Title 31, § 574-1 (1968): "Every married woman shall adopt her husband's name as a family name." Hawaii appears to be the only state with a statutory provision determinative of the issue.

[4] *People ex rel. Rago v. Lipsky, supra*, contains no reference to English law.

[5] The first election law dealing with the name of married women was enacted as part of the permanent general registration of voters in Baltimore City. It provided for notification to the Board by the Clerk in Baltimore City similar to the present § 3-18 (a) (3) and further provided that "Whenever, after an original registration, a person shall change his or her name, such person shall be required to re-register; * * *." Laws of 1937, ch. 77, § 29-0.

In 1945, Article 33 was repealed and a new Article 33 enacted. The notification provision was extended statewide, but without express provision for cancellation and re-registration. Laws of 1945, ch. 934, § 28 (c).

In 1959 the provision was added that in the event of change of name by marriage, the voter would be given an opportunity to show cause prior to cancellation. Laws of 1959, ch. 287 § 43 (g).

Minor changes, not here relevant, were made by Laws of 1967, ch. 392 and Laws of 1972, ch. 10.

Appendix A3

Hardy v. Hardy, 269 Md. 412 (1973)

Hardy v. Hardy, 306 A.2d 244 (Md. 1973)

Court of Appeals of Maryland

Filed: July 5th, 1973

Precedential Status: Precedential

Citations: 306 A.2d 244, 269 Md. 412

Docket Number: [No. 339, September Term, 1972.]

Panel: [J Dudley Digges](#), [Irving A. Levine](#), [William J. McWilliams](#), [Robert C. Murphy](#), [Frederick J. Singley Jr.](#), [Marvin H. Smith](#)

Judges: Murphy, C.J., and McWilliams, Singley, Smith, Digges and Levine

269 Md. 412 (1973)
306 A. 2d 244

HARDY

v.

HARDY, INFANT BY HIS MOTHER, NANCY JANE HOGAN

[No. 339, September Term, 1972.]

Court of Appeals of Maryland.

Decided July 5, 1973.

*413 The cause was argued before MURPHY, C.J., and McWILLIAMS, SINGLEY, SMITH, DIGGES and LEVINE, JJ.

Gary Howard Simpson for appellant.

No brief filed on behalf of appellee.

DIGGES, J., delivered the opinion of the Court.

This is an appeal from the Circuit Court for Dorchester County where Judge Mace, sitting in equity, decreed that the name of a five year old child, James Lucian Hardy, be changed to Lucian Eugene Creighton. The decree was passed under the BH Subtitle of Chapter 1100 of the Maryland Rules^[1] on March 30, 1972, the same day the name change petition was filed on behalf of the infant by his mother, Nancy Jane Hogan. Accompanying the petition was a motion seeking a waiver of the normal requirement of Rule BH72 a that there be notice by publication of the applied for change. This motion alleged that:

"the child for which the change of name is requested is five years of age, has no creditors, no obligations or liabilities, has never used his name for any instrument, and does not have an award of social security, or any other type of award from any agency dealing with the public; and she avers that Publication is unnecessary in the instant case."

The chancellor granted this motion, and as mentioned, on the same day, decreed that the name change be allowed. About three and a half months later, on July 18, 1972, James *414 Hardy, the natural father of this child who was born out of wedlock, petitioned

the court under Rule 625 (Revisory power of Court over Judgment) to strike its order granting the name change so that he might have an opportunity to present relevant information on the merits of the petition. By his motion, the father challenged the truthfulness of certain facts alleged in the petition; averred that it did not state any valid reason for changing the name; complained that he had not received actual notice of the proceeding; and that the notice contemplated by Rule BH72 a to those who might be interested in the matter was improperly waived by the court. He further alleged that once he had learned of the name change he acted with due diligence in moving to strike the decree. Following a hearing on this motion, the request to vacate the decree was denied as the court concluded that:

"So, for those reasons, number one, I don't think Mr. Hardy has any legal standing to oppose this, and number two, that even if he did have legal standing to oppose it, I think in the best interest of the child and for the best welfare of the child that under the circumstances that his name be changed. Consequently, Madam Clerk, [record] that the petition to strike the order in this case be denied."

From that denial, Hardy, appellant, has noted this appeal. Here, he raises several issues of alleged constitutional infirmity in the procedures involved in the conduct of this case which, he claims, require reversal. Appellant argues that the denial of standing to him as the father of this illegitimate child deprived him of the equal protection of the law as well as due process. Additionally, he claims that the failure to require notice, at least by publication, of the pendency of the hearing on the name change also deprived him of due process of law. Under the view we take of this appeal it is unnecessary to consider specifically these constitutional challenges. This is so because we conclude that the chancellor incorrectly permitted the waiver of notice by publication in this case and, with this irregularity, it was error not to grant appellant's motion to strike the *415 decree allowing the name change. For this reason that action of the chancellor must be reversed and the case remanded for further proceedings.

In the absence of a statute to the contrary, a person may adopt any name by which he wishes to become known, as long as he does so consistently and nonfraudulently. *Stuart v. Board of Elections*, 266 Md. 440, 295 A.2d 223 (1972); *Romans v. State of Maryland*, 178 Md. 588, 16 A.2d 642 (1940), cert. denied, 312 U.S. 695, 61 S. Ct. 732, 85 L. Ed. 1131 (1941). But, here we point out that the original petition to have Lucian's name changed through legal proceedings was filed by his mother on his behalf. (Rule BH70 b) And, as this petition concerns the name change of a child, it is the duty of the court, as in all matters before it involving minors, to examine what is in the infant's best interests before determining if the requested change is warranted. *West v. Wright*, 263 Md. 297, 299, 283 A.2d 401 (1971). In making this inquiry, the court should obtain as much information as is reasonably necessary to discharge its responsibility. One possible, important source of knowledge is the relevant information that can be gained from those people who were made aware of the pendency of the petition through the notice of publication normally required by Rule BH72 a. That rule states:

"Order of Publication
a. Issuance – As of Course.

Upon the filing of the petition, the clerk shall issue, as of course, an order of publication unless the court, on motion by the petitioner showing good cause, orders that notice by publication need not be given."

The purpose of requiring publication is to apprise as many people as possible of the pendency of the petition so anyone who reasonably wishes to offer relevant information to aid the court in performing its functions can do so. The motion seeking waiver here was based solely on the fact that this young child has no assets or liabilities, nor has he ever "used his name for any instrument." While these grounds might *416 form an appropriate basis for waiver of publication in a name change case involving an adult, they do not create a sufficient foundation for waiver on such a petition filed on behalf of an infant by another person under the BH rules. In fact, we find it difficult to imagine a case which has as its purpose the change of an infant's name under the BH rules, as distinguished from other types of name change proceedings, where it would be proper to waive publication. As the court's function here was to determine what is in the best interests of young Lucian, it was improper to waive publication and thereby create a roadblock to possible avenues that could provide useful information on this subject.

This infirmity in the procedures leading to the name change decree was challenged by appellant in his motion to strike. Although this motion was filed more than thirty days after the entry of the decree, and therefore it had become enrolled, Rule 625 a provides that the court shall continue to have revisory power over an enrolled decree "in case of fraud, mistake or irregularity." This Court has defined an "irregularity" as "the doing or not doing of that, in the conduct of a suit at law, which, conformable with the practice of the court, ought or ought not to be done." *Shaw v. Adams*, 263 Md. 294, 283 A.2d 390 (1971) and cases cited therein. The failure here to provide for notice by publication was the type of "irregularity" contemplated by Rule 625 a. As a result of this, the court's revisory power continued beyond the date when the decree became enrolled. But, as we said in *Shaw*:

"Once the irregularity is established, the party who moves to set aside an enrolled judgment must also show that he is acting in good faith, with ordinary diligence, and that he has a meritorious defense, . . . so as to satisfy the court in the exercise of a sound discretion that the judgment should be set aside."

(Citations omitted.) *Id.* at 296.

From the facts before us, we conclude that at the hearing *417 held on the motion to strike Hardy satisfied these requirements and presented, prima facie, sufficient evidence of a meritorious basis why it was not in the best interests of the child to have his name changed. And this evidence should be considered by the chancellor prior to acting on the name change request. A summation of all the testimony at that hearing on the motion reads like a script for a television soap opera. The evidence shows that Nancy Jane Hogan was born about twenty-nine years ago as Nancy Jane Baldwin. According to her testimony, in 1960, when she was sixteen years old, she married a young man "in order to get away from home primarily. I lived with him for a period of two months, long enough to get to Florida and back. And then, I lived [with and in 1963] married a Mr. Looper. I lived with him for three months.... After Mr. Looper ... I lived in a house with three or four

other young people, but living primarily and solely with [one] young man, I did not. Then I met Mr. Hardy." Starting some time in 1965 Nancy Jane and Hardy lived together for eleven months and the child who is the subject of these proceedings was born of this relationship. Hardy testified that before the child was born, because of the circumstances surrounding their relationship and their emotional and financial instability, he urged Nancy Jane to obtain a legal abortion or to permit the child to be adopted. She refused to accept either alternative. Finally, Hardy agreed to permit Nancy Jane to name the child James Lucian Hardy on the condition that she never seek to obtain support payments from him. This condition was accepted and the child was so named. Shortly after the birth of the child, Nancy Jane and Hardy parted company and thereafter the father only saw the child sporadically during the next year or two. By 1970 Nancy Jane had drifted through three more relationships and then she took her third husband, a Mr. Hogan; but this marriage too only lasted a few months. In April 1971 she began living with Eugene Creighton, a man who had recently deserted his own wife and two children. For the last sixteen months before the hearing on this matter, Nancy Jane and Creighton have lived together. They now reside at Fishing Creek, Maryland, *418 on Hooper's Island and she says it was because of the prominence of the Creighton name in that area and because she wanted her child, who was soon to start school, to have the same last name as the man she loved and was living with that she requested the child's name be changed to Lucian Eugene Creighton. Nancy Jane further testified that she and Creighton hope to get married "when and if his wife ever consents to a divorce" and that "eventually Eugene will be adopting him." At the same hearing on the motion to strike, Hardy said that he was interested in his son as demonstrated by the fact that he had periodically contributed cash, clothes, toys, books and food for the child and in recent years, when the child was at his maternal grandparents' home, he visited him whenever he could. However, he agreed that for the most part, the child has lived with and been supported by his mother. Hardy further testified that he felt that it would be in the child's interest to retain his name as it would provide him "a stable identity in an uncertain future, and it would allow a certain commonality between us, it would allow him to share identity between us."

Bearing in mind that this proceeding is before us only on the denial of the motion to strike, we will vacate the name change decree and remand the case for a hearing on the petition that can be conducted following the proper publication of notice under Rule BH72 a. Our decision here is not based on the merits of the petition; it only goes to the irregularity that preceded the decree. On remand the court may reach the same conclusion, but at least it will be grounded upon evidence gained from any witnesses who, having obtained knowledge of the pendency of the petition through the notice contemplated by Rule BH72 a, have come forward to provide the court with relevant information concerning what is in the best interests of the child.

Under the view we take on this appeal it is unnecessary to consider specifically appellant's constitutional arguments regarding the rights of a father of an illegitimate child. However, we note that the recognition of the rights of illegitimate children and their parents is an area now *419 receiving considerable judicial attention. See *Stanley v. Illinois*, 405 U.S. 645, 92 S. Ct. 1208, 31 L. Ed. 2d 551 (1972). See also, *Weber v. Aetna Casualty & Surety Co.*, 406 U.S. 164, 92 S. Ct. 1400, 31 L. Ed. 2d 768 (1972); *Levy v. Louisiana*, 391 U.S. 68, 88 S. Ct. 1509, 20 L. Ed. 2d 436 (1968).

Order of August 24, 1972 refusing to strike decree of March 30, 1972 reversed; original decree granting the change of name vacated and case remanded for further proceedings in accordance with this opinion.

Costs to be paid by appellee.

NOTES

[1] Maryland Code (1957, 1973 Repl. Vol.), Art. 16, § 123 is also relevant. It provides that: "When the name of a person is changed by a court proceeding, the true and legal name of the person shall be that determined by the order of the court."

Appendix A4
82 Op. Att’y Gen. 44,
Waiver of Publication in Name Change
Cases (1997)

**COURTS AND JUDGES—JURISDICTION AND PROCEDURE—WAIVER
OF PUBLICATION IN NAME CHANGE CASE**

August 21, 1997

The Honorable Theresa A. Nolan
Circuit Court for Prince George’s County

You have requested our opinion about waiver of publication in name change proceedings. Specifically, you ask whether the court may waive publication on request of an adult seeking a personal name change, on request of one or both parents seeking a change of name of a minor child, or on the court’s own initiative.

Our opinion is that the court may waive publication on motion of any petitioner, whether an adult seeking a personal name change or a parent seeking to have the name of a minor child changed; the court may not waive publication on its own initiative. Waiver of publication even on motion should be viewed cautiously, however, in light of the disfavored status of waivers in this type of case.

I

Authority for Waiver on Motion of Petitioner

As part of the ongoing rules revision and reorganization project, the Court of Appeals, by Order dated June 5, 1996, adopted new rules to replace, among others, the former Chapter 1100 Rules governing special proceedings. By that Order, Rule 15-901 replaced the former Subtitle BH Rules in Chapter 1100 governing name changes.

With respect to publication of notice of the filing of a petition for name change, Rule 15-901(e)(2) provides that “[u]nless the court on motion of the petitioner orders otherwise,” the notice shall be published in a newspaper once. This provision replaced the provisions in former Rule BH72a and c, which required an order of publication to be issued by the clerk and published three times, once a week in each of three successive weeks, “unless the court, on motion by the petitioner, orders that notice by publication need not

be given.” Former Rule BH72a further provided that if publication were waived, the notice was to be posted pursuant to Rule 2-122 and mailed to every person entitled to notice whose identity and address or whereabouts was known.

The phrase “[u]nless the court on motion of the petitioner orders otherwise” in Rule 15-901(e)(2) clearly is intended to replace the similar provision in former Rule BH72a and to allow a waiver of publication on motion of the petitioner. Nothing in the language of Rule 15-901 or its history, including the former rule from which it was derived, suggests that the word “petitioner” in this phrase applies only to an adult petitioning to change his or her name and not to a parent petitioning for the change of a minor child’s name.

In the case of a minor child’s name change, Rule 15-901(d) requires notice by *in personam* service under Rule 2-121 on any parent, guardian, or custodian of the child who is not a petitioner; this requirement may not be waived. Under section (d), the court has discretion to order service by publication and mailing for any parent, guardian, or custodian for whom good faith efforts to serve under Rule 2-121(a) are unsuccessful and alternative service under Rule 2-121(b) is inapplicable or impractical. Notice by publication under section (e) is required for all other persons who may be interested in the petition to change the child’s name. It is this required notice by publication that the court may waive on motion of the petitioner in a case involving the name change of a minor child.

Thus, the court may waive publication on motion of any person who has filed a petition for change of name of the petitioner or of a minor child. However, for the reasons explained in Part III below, waivers of publication are disfavored.

II

Lack of Authority for Waiver on Court’s Own Initiative

Some rules expressly provide when an action may be taken by the court either on motion of a party or on the court’s own initiative. For example, Rule 2-508 provides that “[o]n motion of any party or on its own initiative, the court may continue a trial or other proceeding as justice may require.” Other rules contain only the

phrase “on motion of any party” and are silent about the court’s authority to act on its own initiative. *See, e.g.*, Rules 2-327(c) (governing transfers for convenience) and 2-534 (governing alteration or amendment of judgment). In those cases, the question of the court’s authority to act *sua sponte* becomes a matter of interpretation.

In *Simmons v. Urquhart*, 101 Md. App. 85, 643 A.2d 487 (1994), *rev’d on other grounds*, 339 Md. 1 (1995), the Court of Special Appeals concluded that the circuit court has inherent authority to transfer an action pursuant to Rule 2-327(c). In so deciding, the Court examined the history of the rule’s most recent revision. In the case of Rule 2-327, while the Court of Appeals’ Standing Committee of Rules of Practice and Procedure had discussed the issue of the court’s inherent authority to transfer an action, it had not finally resolved the issue. 101 Md. App. at 100-101. The Court then examined the language and interpretation of the federal statute from which Rule 2-327 was derived and the Maryland cases interpreting other rules that are silent about the court’s authority to do on its own initiative that which it may do on motion of a party. 101 Md. App. at 102-103. In *Simmons*, and in other cases cited in it, a significant basis supporting the trial court’s authority to act *sua sponte* is the independent authority of the court to control its docket and to consider and promote judicial economy. *See Goins v. State*, 293 Md. 97, 442 A.2d 550 (1982) (court may postpone trial in a criminal case on its own initiative); *Gluckstern v. Sutton*, 319 Md. 634, 574 A.2d 898, *cert. denied*, 498 U.S. 950 (1990) (court, *sua sponte*, may alter or amend its own judgment pursuant to Rule 2-534).

As noted by the Court in *Simmons*, however, not all rules that are silent regarding the court’s authority to act on its own initiative are subject to the interpretation that the court may act without a motion of a party. For example, in *Hartford Ins. Co. v. Manor Inn of Bethesda, Inc.*, 335 Md. 135, 146-47, 642 A.2d 219 (1994), the Court of Appeals held that the trial court may not grant summary judgment on its own initiative. In so deciding, the Court relied on an explanatory note authored by the Rules Committee establishing that the Committee did not intend for trial courts to raise motions for summary judgment on their own initiative.

Applying the analysis used in these cases, we conclude that Rule 15-901 does not permit the court to waive publication on its own initiative without a motion from the petitioner. During

deliberations on the reorganization and revision of this rule, the Rules Committee did not discuss the matter of the court's waiving publication on its own initiative. *See* Minutes of Rules Committee meeting of November 17, 1989, at 42-49; meeting of April 12-13, 1991, at 33-48; and meeting of June 17, 1994, at 40-49. During these discussions, however, committee members observed that a waiver may be requested because the petitioner is unable to afford the cost of publication. *See* Minutes of Rules Committee meeting of April 12-13, 1991, at 39. The information relevant to a waiver based on the petitioner's inability to pay necessarily must be provided by the petitioner. *See* Rule 1-325(a) (requiring an affidavit verifying the facts and stating the grounds for entitlement to a waiver sought by a person asserting inability to pay a cost ordinarily required to be prepaid). Thus, a waiver of publication based on a petitioner's inability to pay is not one that the court would be in a position to raise on its own initiative.

In addition, in *Hardy v. Hardy*, 269 Md. 412, 415-16, 306 A.2d 244 (1973), the Court of Appeals opined that assertions that the person whose name is sought to be changed has no assets or liabilities and has never used his or her name for any instrument "might form an appropriate basis for waiver of publication in a name change case involving an adult." As with a waiver based on the petitioner's inability to pay, the information based on these grounds necessarily must be provided by the petitioner; the court would not be in a position to waive publication *sua sponte* on this basis.

Finally, neither the court's control of its docket nor promotion of judicial economy would appear to be assisted by *sua sponte* waiver of publication in a name change case. Because waiver of publication is disfavored, as we explain in Part III below, court-ordered waiver without any request to do so heightens the risk of reversible error. In *Hardy*, for example, the decree granting the name change without publication of notice was vacated, and the case was remanded for further proceedings. Thus, a waiver of publication risks a detrimental effect on judicial economy and the trial court's control of its docket.

III

Disfavored Status of Waiver of Publication

In propounding the reorganized draft rule for consideration by the Court of Appeals, the Rules Committee dropped the requirement under former Rule BH72a for posting and mailing if publication is waived. The Committee also reduced the number of times publication was required, from three to one, with the understanding that these changes would result in reduced cost to the petitioner and, hence, less frequent waivers. *See* Minutes of Rules Committee meeting of April 12-13, 1991, at 33-48; meeting of June 17, 1994, at 40-49. The rules changes were designed to “favor publication over waiver of publication.” *See* Minutes of Rules Committee meeting of June 17, 1994, at 47.

In *Hardy v. Hardy*, the Court noted that “[t]he purpose of requiring publication is to apprise as many people as possible of the pendency of the petition so anyone who reasonably wishes to offer relevant information to aid the court in performing its functions can do so.” 269 Md. at 415. Under Rule 15-901, the only persons entitled to personal service of notice of the filing of a petition for name change are the non-petitioning parent, guardian, or custodian of a minor child whose name is sought to be changed. All other interested persons who may wish to object to the petition, pursuant to Rule 15-901(f), must rely on publication for notice of the petition.

In view of the express provisions of Rule 15-901, the history of the Rule’s revision, including the reduction of the burdens associated with publication, and the purpose of publication as identified by the Court of Appeals, it appears clear that waiver of publication is disfavored.

IV

Conclusion

In summary, it is our opinion that the court may waive publication under Rule 15-901(e)(2) on motion of the petitioner, but not on its own initiative. In light of the disfavored status of waivers

of publication, motions for waiver should be viewed by the court cautiously.

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Opinions and Advice

Appendix B1
Health – Gen. § 4-211,
New Certificates of Birth

Document: Md. HEALTH-GENERAL Code Ann. ...

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MARYLAND CODE AND COURT RULES

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Md. HEALTH-GENERAL Code Ann. § 4-211

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[MD - Annotated Code of Maryland](#) [HEALTH - GENERAL](#) [TITLE 4. STATISTICS AND RECORDS](#) [SUBTITLE 2. VITAL STATISTICS AND RECORDS](#)

§ 4-211. New certificates of birth

(a) New certificate authorized -- Birth in this State. -- Except as provided in subsection (d) of this section, the Secretary shall make a new certificate of birth for an individual if the Department receives satisfactory proof that:

- (1)** The individual was born in this State; and
- (2)** Regardless of the location, one of the following has occurred:
 - (i)** The previously unwed parents of the individual have married each other after the birth of the individual;
 - (ii)** A court of competent jurisdiction has entered an order as to the parentage, legitimation, or adoption of the individual; or
 - (iii)** If a father is not named on an earlier certificate of birth:
 - 1.** The father of the individual has acknowledged himself by affidavit to be the father; and
 - 2.** The mother of the individual has consented by affidavit to the acknowledgment.

(b) New certificate authorized -- Sex change or diagnosis of intersex condition. -- Except as provided in subsection (d) of this section, the Secretary shall make a new certificate of birth for an individual if the Department receives satisfactory proof that:

- (1)** The individual was born in this State; and
- (2)** Regardless of the location, one of the following has occurred:
 - (i)**
 - 1.** A licensed health care practitioner who has treated or evaluated the individual has determined that the individual's sex designation should be changed because the individual has undergone treatment appropriate for the purpose of sex transition or has been diagnosed with an intersex condition;
 - 2.** The individual, or if the individual is a minor or disabled person under guardianship, the individual's parent, guardian, or legal representative, has made a written request for a new certificate of birth with a sex designation that differs from the sex designated on the original certificate of birth; and



Document: Md. HEALTH-GENERAL Code Ann. ...

- A.** The individual has undergone surgical, hormonal, or other treatment appropriate for the individual, based on generally accepted medical standards; or
- B.** The individual has an intersex condition and, in the professional opinion of the licensed health care practitioner, based on generally accepted medical standards, the individual's sex designation should be changed accordingly;
- (ii)** A court of competent jurisdiction has issued an order indicating that the sex of an individual born in this State has been changed; or
- (iii)** Before October 1, 2015, the Secretary, as provided under regulations adopted by the Department, amended an original certificate of birth on receipt of a certified copy of an order of a court of competent jurisdiction indicating the sex of the individual had been changed.
- (c) New certificate authorized -- Birth outside United States. --** Except as provided in subsection (d) of this section, the Secretary may make a new certificate of birth for an individual who was born outside the United States if one of the following occurred in this State:
- (1)** The previously unwed parents of the individual have married each other after the birth of the individual;
- (2)** A court of competent jurisdiction in this State has entered an order as to parentage or legitimation; or
- (3)** The father of the individual acknowledged himself by affidavit to be the father and the mother of the individual has consented by affidavit to the acknowledgment.
- (d) When new certificate prohibited. --** The Secretary may not make a new certificate of birth in connection with an order of a court of competent jurisdiction relating to the adoption of an individual, if one of the following so directs the Secretary:
- (1)** The court that decrees the adoption.
- (2)** The adoptive parents.
- (3)** The adopted individual, if an adult.
- (e) Form of new certificate. --** A new certificate of birth shall be prepared on the following basis:
- (1)** The individual shall be treated as having at birth the status that later is acquired or established and of which proof is submitted.
- (2)** If the parents of the individual were not married and paternity is established by legal proceedings, the name of the father shall be inserted. The legal proceeding should request and report to the Secretary that the surname of the subject of the record be changed from that shown on the original certificate, if a change is desired.
- (3)** If the individual is adopted, the name of the individual shall be that set by the decree of adoption, and the adoptive parents shall be recorded as the parents of the individual.
- (4)** The new certificate of birth shall contain wording that requires each parent shown on the new certificate to indicate his or her own Social Security number.
- (f) Form of new certificate -- Sex change or diagnosis of intersex condition. --**
- (1)** When a new certificate of birth is made under subsection (b) of this section:
- (i)** The sex designation of the individual on the new certificate of birth shall be the sex designation for which satisfactory proof has been submitted in accordance with subsection (b) of this section; and
- (ii)** If the name of the individual has been changed at any time, the name of the individual on the new certificate of birth shall be the name that was last established and for which appropriate documentation has been submitted to the Department.
- (2)** A new certificate of birth made under subsection (b) of this section may not:



Document: Md. HEALTH-GENERAL Code Ann. ...

1. A sex designation, or

2. If applicable, a change of name.

(g) Substitution for original certificate. --

(1) If a new certificate of birth is made, the Secretary shall:

(i) Substitute the new certificate of birth for any certificate then on file; and

(ii) Place the original certificate of birth and all records that relate to the new certificate of birth under seal.

(2) The seal may be broken only:

(i) On order of a court of competent jurisdiction;

(ii) If it does not violate the confidentiality of the record, on written order of a designee of the Secretary; or

(iii) In accordance with Title 5, Subtitle 3A or Subtitle 4B of the Family Law Article.

(3) A certified copy of the certificate of birth that later is issued shall be a copy of the new certificate of birth, unless:

(i) A court of competent jurisdiction orders the issuance of a copy of the original certificate of birth; or

(ii) Title 5, Subtitle 3A or Subtitle 4B of the Family Law Article provides for the issuance of a copy of the original certificate of birth.

(h) Adoption or paternity decree. -- Each clerk of court shall send to the Secretary, on the form that the Secretary provides, a report of:

(1) Each decree of adoption;

(2) Each adjudication of paternity, including the father's Social Security number; and

(3) Each revocation or amendment of any decree of adoption or adjudication of paternity that the court enters.

(i) Annulment of adoption; restoration of original certificate. -- Upon receipt of a report or decree of annulment of adoption, the original certificate of birth shall be restored to its place in the files, and the adoption certificate and any accompanying documents are not subject to inspection except upon order of a court of competent jurisdiction or as provided by regulation.

(j) Delayed certificate. -- If no certificate of birth is on file for the person for whom a new birth certificate is to be established under this section, and the date and place of birth have not been determined in the adoption or paternity proceedings:

(1) A delayed certificate of birth shall be filed with the Secretary as provided in § 4-210 of this subtitle before a new certificate of birth is established; and

(2) The new birth certificate shall be prepared on the delayed birth certificate form.

(k) Certificate of foreign birth. --

(1) The Secretary shall, on request, prepare and register a certificate in this State for an individual born in a foreign country and who was adopted:

(i) Through a court of competent jurisdiction in this State; or

(ii)

1. Under the laws of a jurisdiction or country other than the United States and has been granted an IR-3 or IH-3 visa by the United States Immigration and Naturalization Service under the Immigration and Nationality Act; and

2. By an adopting parent who is a resident of this State.

(2) Except as provided in paragraph (3) of this subsection, the certificate shall be established on receipt of:

(i) A certificate of adoption from the court decreeing the adoption;



Document: Md. HEALTH-GENERAL Code Ann. ...

or over that the certificate be prepared.

(3) If the child was adopted under the laws of a jurisdiction or country other than the United States and has been granted an IR-3 or IH-3 visa by the United States Immigration and Naturalization Service under the Immigration and Nationality Act, the certificate shall be established on receipt of:

- (i)** An official copy of the decree from the jurisdiction or country in which the child was adopted;
 - (ii)** A certified translation of the foreign adoption decree;
 - (iii)** Proof of the date and place of the child's birth;
 - (iv)** Proof of IR-3 or IH-3 visa status;
 - (v)** A request from the court, the adopting parents, or the adopted person if 18 years of age or over that the certificate be prepared; and
 - (vi)** Proof that the adopting parent is a resident of this State.
- (4)** The certificate shall be labeled "Certificate of Foreign Birth" and shall show the actual country of birth.
- (5)** A statement shall also be included on the certificate indicating that it is not evidence of United States citizenship for the child for whom it is issued.

History

An. Code 1957, art. 43, § 19; 1982, ch. 21, § 2; 1988, ch. 464; 1991, ch. 36; 1995, ch. 97; 1998, ch. 679; 2002, ch. 516; 2003, ch. 21, § 1; 2004, ch. 158; 2011, chs. 463, 464; 2015, chs. 484, 485.

Annotated Code of Maryland

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Appendix B2
Transportation § 12-305,
Sex Markers on Licenses

Article - Transportation

§12-305.

(a) An application for a license, an identification card, or a moped operator's permit shall allow an applicant to indicate that the sex the applicant identifies as is:

- (1) Female;
- (2) Male; or
- (3) Unspecified or other.

(b) The Administration shall ensure that the license, identification card, or moped operator's permit of an applicant who has indicated an unspecified or other sex on an application displays an "X" in the location on the license, identification card, or moped operator's permit that indicates the applicant's sex.

(c) The Administration may not:

- (1) Require an applicant for a license, an identification card, or a moped operator's permit to provide proof of the applicant's sex; or
- (2) Deny an application for a license, an identification card, or a moped operator's permit because the sex selected by the applicant does not match the sex indicated on another document associated with the applicant.

Appendix B3

In re Heilig 372 Md. 692 (2003)



Positive

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In re Heilig

Court of Appeals of Maryland

February 11, 2003, Filed

No. 38, September Term, 2002

Reporter

372 Md. 692 *; 816 A.2d 68 **; 2003 Md. LEXIS 31 ***

IN THE MATTER OF ROBERT WRIGHT HEILIG;
JANET HEILIG WRIGHT

Prior History: [***1] Certiorari to the Court of Special Appeals (Circuit Court for Montgomery County). Case No. 15778. DeLawrence Beard, JUDGE.

Disposition: Vacated and remanded with instructions.

Core Terms

gender, sex, transsexual, surgery, sexual, genitalia, male, female, courts, birth certificate, ambiguous, hormonal, birth, reassignment, records, declare, brain, court of competent jurisdiction, declaratory judgment, marriage, differentiated, chromosome, surgical, rights, vital, psychological, individual's, external, appears, court of equity

Case Summary

Procedural Posture

The court granted certiorari review to an appeal by petitioner self-identified transsexual from a judgment of the Court of Special Appeals of Maryland that affirmed a trial court's judgment granting the name change requested by the transsexual but denying his request for legal recognition of a gender change.

Overview

Md. Code Ann., [Health-Gen. § 4-214\(b\)\(5\)](#) permitted a transsexual person to petition to have a change in gender reflected on his or her Maryland birth certificate. A person claiming transsexual status, from male to female, not born in Maryland, sought similar relief in the form of a declaration that he was no longer male, but female. The high court held that the trial court had mistakenly believed that it lacked jurisdiction because the absence of a contested issue made statutory

declaratory relief unavailable, but that pursuant to [Md. Const. art. IV, § 20](#) and Md. Code Ann., [Cts. & Jud. Proc. § 1-501](#), a circuit court in Maryland was always able to exercise equity jurisdiction when the interests of justice demanded it. The enactment of Md. Code Ann., [Health-Gen. § 4-214\(b\)\(5\)](#) and related provisions indicated that Maryland law recognized that a person's gender could be changed and that courts of general jurisdiction could determine whether this had occurred. The alleged transsexual had not had sufficient opportunity to present medical and other evidence supporting his claimed change, so on remand he was to be allowed such an opportunity.

Outcome

The court held that the trial court had jurisdiction to consider the transsexual's request, and remanded the matter for further proceedings to determine whether the transsexual had in fact effected a permanent and irreversible change in gender that warranted recognition.

LexisNexis® Headnotes

Constitutional Law > Bill of Rights > Fundamental Freedoms > General Overview

[HN1](#) Bill of Rights, Fundamental Freedoms

The Court of Appeals of Maryland recognizes that: (1) gender itself is a fact that may be established by medical and other evidence; (2) it may be, or possibly may become, other than what is recorded on the person's birth certificate; and (3) a person has a deep personal, social, and economic interest in having the official designation of his or her gender match what, in fact, it always was or possibly has become.

Civil Procedure > Judgments > Declaratory
Judgments > General Overview

[HN2](#) **Judgments, Declaratory Judgments**

Md. Code Ann., [Cts. & Jud. Proc. § 3-403\(a\)](#) gives broad authority to the Maryland Circuit Court to declare rights, status, and other legal relations whether or not further relief is or could be claimed.

Civil Procedure > ... > Justiciability > Case &
Controversy Requirements > Actual Controversy

Civil Procedure > Judgments > Declaratory
Judgments > General Overview

Civil Procedure > ... > Declaratory
Judgments > State Declaratory
Judgments > General Overview

[HN3](#) **Case & Controversy Requirements, Actual Controversy**

Md. Code Ann., [Cts. & Jud. Proc. § 3-409](#), which governs the appropriateness of declaratory relief in a civil action not founded specifically on a contract, deed, trust, will, land patent, statute, or administrative regulation, authorizes the court to grant a declaratory judgment if it will terminate the uncertainty or controversy giving rise to the proceeding and: (1) an actual controversy exists between contending parties; (2) antagonistic claims are present between the parties which indicate imminent and inevitable litigation; or (3) a party asserts a legal relation, status, right, or privilege that is challenged or denied by an adverse party.

Civil Procedure > ... > Declaratory
Judgments > State Declaratory
Judgments > General Overview

Civil Procedure > ... > Subject Matter
Jurisdiction > Jurisdiction Over Actions > General
Overview

Civil Procedure > Judgments > Declaratory
Judgments > General Overview

[HN4](#) **Declaratory Judgments, State Declaratory**

Judgments

For declaratory judgment purposes, the lack of an actual contest involving an adverse party is not a jurisdictional defect, as contrasted to one that simply makes relief under the Maryland Declaratory Judgment Act inappropriate, but the end result, with respect to a declaratory judgment proceeding, is the same.

Civil Procedure > Preliminary
Considerations > Equity > General Overview

Criminal Law & Procedure > Jurisdiction &
Venue > General Overview

Civil Procedure > ... > Jurisdiction > Jurisdictional
Sources > General Overview

Civil Procedure > ... > Jurisdiction > Subject Matter
Jurisdiction > General Overview

Civil Procedure > ... > Subject Matter
Jurisdiction > Jurisdiction Over Actions > General
Overview

Governments > Courts > Authority to Adjudicate

Governments > Courts > Common Law

[HN5](#) **Preliminary Considerations, Equity**

[Md. Const. art. IV, § 20](#) provides for a circuit court in Baltimore City and each of the state's 23 counties, and it vests those courts, within their respective geographic boundaries, with all the power, authority, and jurisdiction, original and appellate, that the circuit courts of the counties exercised on November 4, 1980, and the greater or lesser jurisdiction thereafter prescribed by law. Implementing that constitutional provision, the General Assembly has provided in Md. Code Ann., [Cts. & Jud. Proc. § 1-501](#), that the circuit courts are the highest common law and equity courts of record exercising original jurisdiction within the state and that each has full common law and equity powers and jurisdiction in all civil and criminal cases within its county, and all the additional powers and jurisdiction conferred by the Maryland Constitution and by law, except where by law jurisdiction has been limited or conferred exclusively upon another tribunal.

Civil Procedure > Preliminary
 Considerations > Equity > General Overview

[HN6](#) Preliminary Considerations, Equity

Equity jurisdiction has always encompassed the enforcement of rights not otherwise enforceable, and the provision of remedies not otherwise available, in the common law courts--appeals to justice. Every just order or rule known to equity courts was born of some emergency, to meet some new conditions, and was, therefore, in its time, without a precedent. Equity recognizes new adjustments for new situations, not upon a dogmatic basis, but upon principles which address themselves to the conscience and intelligence, and therefore admit of a rational and progressive development. Among the categories of remedies added over time are those that establish, declare, alter, or terminate some aspect of personal legal status.

Civil Procedure > ... > Declaratory
 Judgments > State Declaratory
 Judgments > General Overview

Civil Procedure > Preliminary
 Considerations > Equity > General Overview

Civil Procedure > Judgments > Declaratory
 Judgments > General Overview

Civil Procedure > Judgments > Relief From
 Judgments > Independent Actions

[HN7](#) Declaratory Judgments, State Declaratory Judgments

The availability or non-availability of a declaratory judgment action does not define or limit the extent of equity jurisdiction. The function of Maryland's Declaratory Judgment Act is to supplement, not limit, the remedies available at law or equity.

Family Law > Name Changes > General Overview

[HN8](#) Family Law, Name Changes

See Md. Code Ann., [Health-Gen. § 4-214\(b\)\(5\)](#).

Civil Procedure > Preliminary

Considerations > Equity > General Overview

Family Law > Name Changes > General Overview

[HN9](#) Preliminary Considerations, Equity

Md. Code Ann., [Health-Gen. § 4-214\(b\)\(5\)](#), along with other statutes in the subtitle of which it is a part, evidences a clear recognition by the Maryland General Assembly that a person's gender can be changed and that there are courts with jurisdiction to consider and determine whether that has occurred.

Civil Procedure > Judgments > Entry of
 Judgments > General Overview

[HN10](#) Judgments, Entry of Judgments

Courts rarely specify the collateral effect of their judgments, unless it is raised as a justiciable issue. The question in a case, ordinarily, is simply whether a party is entitled to the judgment, not what the party may do with it. What effect a judgment has depends on the law governing what the judgment holder seeks to do.

Evidence > ... > Testimony > Expert
 Witnesses > General Overview

[HN11](#) Testimony, Expert Witnesses

Any reasoned legal conclusion respecting an asserted change in one's gender must be based on admissible evidence of medical fact--the factors that actually should be considered in determining gender and what the person's gender status is when viewed in the context of those factors.

Counsel: ARGUED BY Alyson Dodi Meiselman (Phyllis Randolph Frye on brief) of North Potomac, MD FOR PETITIONER.

No Argument FOR RESPONDENT.

Judges: ARGUED BEFORE Bell, C.J.; Eldridge, Raker, Wilner, Cathell, Harrell, and Battaglia, JJ. Opinion by Wilner, J.

Opinion by: Wilner

Opinion

[*693] Opinion by Wilner, J.

[**69] Petitioner was born in Pennsylvania in 1948. His birth certificate, issued by the Department of Health of that State, records his name as Robert Wright Heilig and his sex as male.

In March, 2001, Mr. Heilig filed a petition in the Circuit Court for Montgomery County, in which he alleged that he was then a Maryland resident and that he was "transitioning from male to female." Invoking the equitable jurisdiction of the court, he asked for an order that would change his name to Janet Heilig Wright and change his "sexual identity" designation from male to female. He noted in his petition the existence of Maryland Code, [§ 4-214\(b\)\(5\) of the Health-General Article](#) [***2], which directs the Secretary of Health and Mental Hygiene, upon receipt of a court order indicating that the sex of an individual born in Maryland "has been changed by surgical procedure," to amend that person's Maryland birth certificate accordingly, but he did not ask the court to order the alteration or amendment of his Pennsylvania birth certificate or, indeed, of any other document.

[*694] No answer or opposition of any kind was filed to the petition. Nonetheless, although ultimately entering an order that changed petitioner's name, the court refused to enter an order changing his sexual identity, concluding that (1) gender had physical manifestations that were not subject to modification, and (2) there was no authority for the court to enter such an order. The effect of the order was to give petitioner a woman's name but to retain his official gender as male. Petitioner did not contest the change in name but appealed the part of the judgment denying his request for recognition of his change in gender.

The Court of Special Appeals affirmed that decision, on at least three alternate grounds. First, although the petition was certainly not filed as such, the court treated the request [***3] for change of gender (although not the request for change of name) as necessarily being in the nature of an action for declaratory judgment. The court concluded, however, that, as no one contested the relief sought or challenged petitioner's claim or status, there was no [**70] immediate case or controversy and therefore no justiciable claim and, accordingly, no "jurisdiction" to enter declaratory relief. The court suggested that, if petitioner ever desired to marry a man and was denied a marriage license because of his gender, such a controversy might exist, but observed

that none existed currently. Second, the intermediate appellate court held that, even if a justiciable claim had been presented, there was no statutory or common law basis for the kind of general gender-change order sought by petitioner. [Section 4-214\(b\)\(5\)](#) was inapplicable, as petitioner had not been born in Maryland, and the court could find no other authority for a court to change the designation of a person's sex or gender.

Though acknowledging that Maryland courts have equity jurisdiction to fashion remedies in the absence of an authorizing statute, the Court of Special Appeals concluded that such jurisdiction must [***4] be based on traditional, fundamental principles of the common law, and not on the broad concept of fairness alone. It rejected the notion that equitable jurisdiction in this case could be based on the principle that "equity [*695] will not suffer a wrong to be without a remedy." The petitioner, the court said, had not yet suffered a wrong.

Finally, the appellate court concluded that, even if the Circuit Court had equitable jurisdiction to grant the relief requested, such relief could not be granted to the petitioner because he had not shown that any purported change in his sexual status was in fact permanent. In default of such evidence, the court stated, the petitioner "has not established a strong case on the equities."

We granted *certiorari* to consider whether a Maryland Circuit Court has jurisdiction to grant the kind of relief sought by petitioner, and, if so, whether, on the record in this case, petitioner has established a right to that relief. We shall conclude that (1) jurisdiction *does* exist to determine and declare that a person has changed from one gender to another, (2) petitioner did not establish that he had sufficiently effected that change to be entitled to such [***5] a determination and declaration, but, (3) in the interest of justice, he should be permitted to offer further proof in this regard. We shall therefore direct that the case be remanded to the Circuit Court for further proceedings.

BACKGROUND

Perhaps because there was no opposition to the petition, the factual evidence in support of petitioner's request for a legal determination of gender change was rather skimpy. Attached to the petition was a copy of petitioner's birth certificate and two letters, each addressed "To Whom It May Concern." The first, from Dr. Michael Dempsey, an endocrinologist, stated that petitioner had been under his care for eighteen months as a "transgendered person," that her treatment

consisted of female hormones and anti-androgens "designed to maintain her body chemistry and bring about anatomical changes within typical female norms," that the hormonal therapy had resulted in "hormonal castration," and that, in Dr. Dempsey's medical opinion, the gender designation on petitioner's driver's license and other documents should be changed to female to "accurately [*696] reflect both her appearance and the hormonal changes of her body." ¹ The [**71] second letter, from a [***6] licensed social worker named Ellen Warren, stated that petitioner "is in psychotherapeutic treatment . . . as a transsexual woman," that it was Ms. Warren's professional opinion that petitioner's name and gender should be legally changed to reflect "her true gender identity, which is female," and that such change was "in accordance with the Standards of Care of the Harry Benjamin International Gender Dysphoria Association."

[***7] A court master, completely misconstruing the nature of the requested relief, placed in the court file and presumably sent to petitioner a document asking what authority a Maryland court had "over the Secretary of State for Pennsylvania" and for petitioner to "indicate how petition complies with [Health Gen Article § 4-214\(b\)\(5\)](#)." Petitioner responded with a memorandum urging that, although the court had no authority over officials from other States, it did have equity jurisdiction to entertain petitions for change of name and gender filed by Maryland residents. Petitioner acknowledged that, because he was not born in Maryland and did not have a Maryland birth certificate, he was unable to take direct advantage of [§ 4-214\(b\)\(5\)](#), but contended that, under equal protection principles, he was entitled to a determination from a court of competent jurisdiction that his gender had changed.

The hearing conducted by the Circuit Court dealt entirely with the issue of jurisdiction. No inquiry was made as to whether petitioner had undergone any sex

reassignment surgery, whether and to what extent the hormonal therapy noted by Dr. Dempsey was permanent and [***8] irreversible, or what, if [*697] any, criteria had been generally accepted in the medical or legal community for determining when, if ever, a complete, permanent, and irreversible gender change has occurred. Although it seems clear from our research that this issue has been considered by courts and legislatures in other States and countries and by various non-judicial agencies, no evidence of the type just noted was presented to the Circuit Court. The only evidence presented in support of the petition, apart from the two letters attached to it, was a form letter from the Maryland Motor Vehicle Administration establishing that, upon review and recommendation by its Medical Advisory Board, the Administration does recognize "transitional gender status change" and will issue a new driver's license reflecting that change, ² and a copy of the fifth version of the Standards of Care for Gender Identity Disorders adopted by the Harry Benjamin International Gender Dysphoria Association.

[***9] DISCUSSION

Transsexualism: Medical Aspects

One of the dominant themes of transsexualism, ³ [***11] [**72] which, to some extent, is reflected in

²What authority the Motor Vehicle Administration has to designate on a driver's license, or any other document issued by the Administration, a gender designation different from that recorded on the person's birth certificate is unclear to us. As there was no evidence that the gender designation on petitioner's license was changed and as no one has challenged such a change if one was made, that issue is not directly before us in this case. Because driver's licenses are frequently used and accepted as evidence of identification, however, we strongly suggest that the Administration formally consult with the Office of the Attorney General and give consideration to this Opinion before making such changes.

³Several different terms have been used, and misused, in describing persons whose sexual identity is inconsistent with their assigned gender. We shall use the term "transsexual," notwithstanding that it, too, has been defined in different ways. STEDMAN'S MEDICAL DICTIONARY 1865 (27th ed. 2000) defines a "transsexual," in relevant part, as "[a] person with the external genitalia and secondary sexual characteristics of one sex, but whose personal identification and psychosocial configuration is that of the opposite sex." See also [Richards v. United States Tennis Ass'n](#), 93 Misc. 2d 713, 400 N.Y.S.2d

¹The letter from Dr. Dempsey used the feminine pronoun in describing petitioner. Because of our conclusion that petitioner has not yet established an entitlement to a determination that his gender has been effectively changed from male to female, we shall use the masculine pronoun. We do so not to disparage petitioner's undoubtedly sincere belief that his transition is, indeed, complete, but simply to be consistent with our conclusion that he has yet to offer sufficient evidence to warrant that determination as a legal matter. We note that, in the petition and other papers filed with the Circuit Court, petitioner also used the masculine pronoun to describe himself.

the two letters and the Standards [*698] offered by petitioner, is the belief that sex/gender is not, in all instances, a binary concept - all male or all female. See Leslie Pearlman, *Transsexualism as Metaphor: The Collision of Sex and Gender*, [43 BUFFALO L. REV. 835, 842-43 \(1995\)](#); Julie A. Greenberg, *Defining Male and Female: Intersexuality and the Collision Between Law and Biology*, [41 ARIZ. L. REV. 265, 275-76 \(1999\)](#). Transsexuals, as petitioner claims to be, seek to achieve recognition of the view that a person's gender/sex is determined by his or her personal sexual identity rather than by physical characteristics alone.⁴ Sex reassignment surgery, under that view, merely harmonizes a person's physical characteristics with that identity. See *M.T. v. J.T.*, [140 N.J. Super. 77, \[*699\] 355 A.2d 204, 211 \(N.J. Super. Ct. App. Div. 1976\)](#) ("In

[267, 270-71 \(N.Y. Sup. Ct. 1977\)](#). That definition, in the context before us in this case, may be too limiting, at least with respect to persons who, as a result of hormone therapy and sex reassignment surgery, have brought their genitalia and some secondary sexual characteristics into conformity with their personal identification. Persons who have undergone those procedures may no longer regard themselves as transsexual but as having achieved a consistent gender. That, however, is the issue. See Lori Johnson, *The Legal Status of Post-operative Transsexuals*, 2 HEALTH L.J. 159, 160 (1994). For pure convenience and without implying anything substantive, we shall use the term as descriptive of the person both before and after any medical procedures. Transsexualism has also been referred to as gender dysphoria. It is a condition to be distinguished from transvestism (cross-dressing) and homosexuality (sexual attraction to persons of one's own gender).

⁴ In the context before us, the terms "sex" and "gender" are not necessarily synonymous for all purposes, and, indeed, the perceived distinctions between them, to some extent, lie at the core of transsexualism. The term "sex" is often used to denote anatomical or biological sex, whereas "gender" refers to a person's psychosexual individuality or identity. See Jerold Taitz, *Judicial Determination of the Sexual Identity of Post-Operative Transsexuals: A New Form of Sex Discrimination*, [13 AM. J. L. & MED. 53, 53-54 \(1987\)](#); Laura Hermer, *Paradigms Revised: Intersex Children, Bioethics & the Law*, [11 ANN. HEALTH L. 195, 200-01 \(2002\)](#); see also Pearlman, *supra*, 43 BUFFALO L. REV. at 835; Francisco Valdes, *Queers, Sissies, Dykes, and Tomboys: Deconstructing the Conflation of "Sex," "Gender," and "Sexual Orientation" in Euro-American Law and Society*, [83 CALIF. L. REV. 3 \(1995\)](#). Much of the debate concerns whether "gender," which takes greater account of psychological factors, is the more relevant concept deserving of legal recognition. The source material uses both terms, and, without implying anything of substance, we shall use the terms interchangeably.

this case the transsexual's gender and genitalia are no longer discordant; they have been harmonized through medical treatment. Plaintiff has become physically and psychologically [***10] unified and fully capable of sexual activity consistent with her reconciled sexual attributes of gender and anatomy.").

[***12] This Opinion is not intended to be a medical text. Apart from our own incompetence to write such a text, it appears that some of the concepts that underlie the views espoused by transsexuals who seek recognition of gender change are the subject of debate, in both the medical and legal communities. The literature, in both communities, is extensive and daunting, and, unguided by expert testimony, there [**73] is no way that we could evaluate it properly. It is, however, necessary to understand those underlying concepts in order to determine what gender is and whether, or how, it may be changed.

There is a recognized medical viewpoint that gender is not determined by any single criterion, but that the following seven factors may be relevant:

- (1) Internal morphologic sex (seminal vesicles/prostate or vagina/uterus/fallopian tubes);
- (2) External morphologic sex (genitalia);
- (3) Gonadal sex (testes or ovaries);
- (4) Chromosomal sex (presence or absence of Y chromosome);
- (5) Hormonal sex (predominance of androgens or estrogens);
- (6) Phenotypic sex (secondary sex characteristics, e.g. facial hair, breasts, body type); and
- (7) Personal sexual identity.

See Greenberg, *supra*, [***13] 41 ARIZ. L. REV. at 278 (citing John Money, SEX ERRORS OF THE BODY AND RELATED SYNDROMES: A GUIDE TO COUNSELING CHILDREN, ADOLESCENTS AND THEIR FAMILIES (2d ed. 1994)); *In re Estate of Gardiner*, [29 Kan. App. 2d 92, 22 P.3d 1086 \(Kan. Ct. App. 2001\)](#) (citing Greenberg); *Maffei v. Kolaeton Indus.*, [164 Misc. 2d 547, 626 N.Y.S.2d 391 \(N.Y. Sup. Ct. 1995\)](#); [*700] compare *Corbett v. Corbett*, [1970] 2 All E.R. 33, 2 W.L.R. 1306 (Probate, Divorce, and Admiralty Div. 1970) (stressing, for purposes of determining the validity of a marriage, only the chromosomal, gonadal, and genital factors); *Attorney General v. Otahuhu Family Court*, [1995] 1 N.Z.L.R. 603 (High Court Wellington, N.Z. 1994) (stressing importance as well of psychological and social aspects of gender); STEDMAN'S MEDICAL DICTIONARY 1626 (27th ed. 2000) (defining "sex").

Blackburn notes that the initial development of a fetus is asexual. SUSAN TUCKER BLACKBURN, *MATERNAL, FETAL, & NEONATAL PHYSIOLOGY: A CLINICAL PERSPECTIVE* 19-24 (2d ed. 2002). The fetus first forms rudimentary sexual organs - gonads, genital ridge, and internal duct system - that later develop into [***14] sexually differentiated organs: testes or ovaries, penis/scrotum or clitoris/labia, and fallopian tubes or seminal vesicles/vas deferens, respectively. This initial differentiation, according to Blackburn, is governed by the presence or absence of a Y chromosome inherited from the father. If present, the Y chromosome triggers the development of testes, which begin to produce male hormones that influence much of the fetus's further sexual development. Those hormones cause the development of male genitalia and inhibit the development of the fetus's primitive fallopian tube system. If the Y chromosome is not present, the fetus continues on what has been characterized as the "default" path of sexual development. The gonads develop into ovaries, and, freed from the inhibiting influence of male hormones, the fetus's primordial duct system develops into fallopian tubes and a uterus.

Most often, it appears, a fetus's sexual development is uneventful, and, because all of the sexual features are consistent and indicate one gender or the other, the person becomes easily identifiable as either male or female. When this development is changed or interrupted, however, the situation may become less [***15] clear, and people may be born with sexual features that are either ambiguous (consistent with *either* sex) or incongruent (seemingly inconsistent with their "assigned" sex). See *generally* ALICE DO MURAT DREGER, *HERMAPHRODITES AND THE MEDICAL INVENTION OF SEX* 35-40 (1998) (summarizing [***16] varieties of sexual ambiguity); Blackburn, *supra*, at 24-28 (discussing physiological anomalies in fetal sexual development); Greenberg, *supra*, 41 ARIZ. L. REV. at 279-90; Claude J. [**74] Migeon & Amy B. Wisniewski, *Sexual Differentiation: From Genes to Gender*, 50 HORM. RES. 245 (1998); Selma Feldman Witchel & Peter A. Lee, *Ambiguous Genitalia*, in *PEDIATRIC ENDOCRINOLOGY* 2D 111 (Mark A. Sperling ed., 2002); Alan J. Schafer & Peter N. Goodfellow, *Sex Determination in Humans*, 18 BIOESSAYS 955, 955-963 (1996); John Money & Anke A. Ehrhardt, *MAN & WOMAN, BOY & GIRL: GENDER IDENTITY FROM CONCEPTION TO MATURITY* 1-21 (1996).

Individuals who have biological features that are ambiguous or incongruent are sometimes denoted as

intersexed or hermaphroditic.⁵ See Greenberg, *supra*, 41 ARIZ. L. REV. at 283-292 (summarizing plethora of medical conditions where [***16] factors contributing to sex determinations are ambiguous or incongruent). The variety of intersexed conditions encompasses virtually every permutation of variance among the seven factors considered in determining gender. These various ambiguities, moreover, may occur both within a specific factor (e.g., ambiguous, unclassifiable genitalia) or between two or more different factors (e.g., chromosomal sex is incongruent with morphological sex). See Dreger, *supra*, at 37-38; Greenberg, *supra*, 41 ARIZ. L. REV. at 281-290.

Generally, these conditions are classified into three "theoretical types": male pseudohermaphroditism, female pseudohermaphroditism, and true hermaphroditism. See *generally*, Blackburn, *supra*, at 24-28, Greenberg, *supra*, 41 ARIZ. L. REV. at 281-283. [***17] The true hermaphrodite consists of an individual with at least some ovarian tissue and some testicular tissue, and is the most rare. Female pseudohermaphrodites often have XX chromosomes and ovaries, but exhibit "masculinized" external genitalia. The "masculinization" of the genitalia can take many forms, including [***18] the enlargement of the clitoris or swelling of the labia (thus resembling a scrotum).

Male pseudohermaphroditism describes an individual who is chromosomally male (XY) and has testes, but who also has external genitalia that have become feminized. In one condition, called androgen insensitivity syndrome (AIS), the feminization of the genitalia is the result of the body's inability to respond to the developmental influences of androgen. Without the effects of the male hormone, the genitalia develop along the "default" path of femininity. This process continues through puberty, resulting in a person with (undescended) testes and male chromosomes who is very feminine. Because the condition may be detectable only upon an internal examination, it is often undiagnosed until puberty, when the presumed woman fails to menstruate.

A condition that produces similar results is known [***18] as 5-alpha-reductase deficiency (5AR). Like AIS, the individual with 5AR deficiency has testes

⁵ Although these terms too are sometimes given distinct meanings within the medical literature, the distinction is unimportant for the purposes of this case. We shall use the terms interchangeably.

but fails to respond to androgen in the womb, resulting in feminine external genitalia. With the onset of puberty, however, the individual *does* begin to respond to the increased production of testosterone, and the body begins to masculinize. The individual grows tall and muscular, begins to grow facial hair, and the genitals become more masculine. Some of these types of ambiguities, as noted above, may go largely unnoticed by the individual manifesting them, and may go undiagnosed for years.

In other cases, the individual's sexual ambiguity may be the result of a mistaken [*75] "sex assignment" at birth. The official designation of a person as male or female usually occurs at or immediately after birth, and is often based on the appearance of the external genitalia. See William Reiner, *To Be Male or Female - That is the Question*, 151 ARCHIVES PED. & ADOLESCENT MED. 224 (1997); Milton Diamond & H. Keith Sigmundson, *Sex Reassignment at Birth*, 151 ARCHIVES PED. & ADOLESCENT MED. 298 (1997); Fayek Ghabrial & Saa M. Girgis, *Dreger, supra*, at 35-40; Reorientation of Sex: Report of Two Cases, 7 INT'L J. FERTILITY [***19] 249 (1962). Sometimes, when the genitalia are abnormal, [*703] doctors have erred in determining the baby's sex, mistaking an enlarged clitoris for a small penis, or *vice versa*. See Ghabrial & Girgis, *supra*, at 252. The criteria for determining sex at birth, one researcher has argued, are simply too rudimentary to be entirely accurate. He notes that,

"Past clinical decisions about gender identity and sex reassignment when genitalia are greatly abnormal have by necessity occurred in a relative vacuum because of inadequate scientific data. Clinical decisions have been constructed largely on the predicted adequacy of the genitalia for adult sexual function. But the human may not be so easily deconstructed. Sex chromosome anomalies, gender identity disorder, genital malformations, metabolic adrenal or testicular errors - these conditions imply a sexual plasticity of great complexity."

Reiner, *supra*, at 224.

In the past, it was not uncommon, if a doctor examining the neonatal child observed what appeared to be ambiguous genitalia and concluded that the genitalia so observed would be incapable of functioning in the male capacity, for the doctor to recommend that [***20] the child be surgically altered and raised as a girl. See Kenneth I. Glassberg, *Gender Assignment and the Pediatric Urologist*, 161 J. UROLOGY 1308 (1999); see

also Diamond & Sigmundson, *supra*, 151 ARCHIVES PED. & ADOLESCENT MED. at 298; Ghabrial and Girgis, *supra*, 7 INT'L J. FERTILITY at 252; Hermer, *supra*, 11 ANN. HEALTH L. at 196-97; Greenberg, *supra*, 41 ARIZ. L. REV. at 290-91. It was previously believed that a person was psychosexually neutral at birth, and that subsequent psychosexual development was dependent on the appearance of the genitals. Diamond and Sigmundson, *supra*, at 298. Thus, it was assumed, the altered male would psychologically respond, adapt to the new genitalia, and develop into a functional and healthy female.

That view appears no longer to be generally accepted. Individuals who have undergone such surgical alterations as a result of abnormal genitalia often have rejected their "assigned" gender and ultimately request that the alterations be [*704] surgically negated so that they may assume their original gender. 41 ARIZ. L. REV. 265 at 303 ("there is no known case where a 46-chromosome, XY male, unequivocally [***21] so at birth, has ever easily and fully accepted an imposed life as an androphilic female regardless of physical and medical intervention."). In this regard, the medical community seems to have concluded that human brains are not psychosexually neutral at birth but are "predisposed and biased to interact with environmental, familial, and social forces in either a male or female mode." *Id.*⁶

[***22] [***76] The medical community's experience with patients born with ambiguous genitalia has led many researchers to believe that the brain

⁶ As a result of this more recent experience and knowledge, doctors and clinicians seem now to be more skeptical about surgical alteration of ambiguous genitalia in very young children. Some doctors and advocates have proposed a moratorium on all surgical reconstruction prior to the patient becoming capable of consenting. See Milton Diamond, *Pediatric Management of Ambiguous and Traumatized Genitalia*, 162 J. UROLOGY 1021 (1999). Others argue that surgical alteration of the genitalia should be an absolute last resort, performed only if all available alternatives fail. See Glassberg, *supra*, 161 J. UROLOGY at 1309; Melissa Hendricks, *Into the Hands of Babes*, Johns Hopkins Magazine, Sept. 2000, available at <http://www.jhu.edu/jhumag/0900web/babes/html> (quoting William Reiner, head of Johns Hopkins Gender Identity and Psychosexual Disorders Clinic); see also Hazel Glenn Beh & Milton Diamond, *An Emerging Ethical and Medical Dilemma: Should Physicians Perform Sex Assignment Surgery on Infants with Ambiguous Genitalia*, 7 MICH. J. GENDER & L. 1 (2000); Hermer, *supra*, 11 ANN. HEALTH L. at 197-98.

"differentiates" *in utero* to one gender or the other and that, once the child's brain has differentiated, that child cannot be made into a person of the other gender simply through surgical alterations. See Diamond & Sigmundson, *supra*, at 303. Some scientists have argued that such medical developments now offer a robust biological explanation of transsexualism - that the brain has differentiated to one sex while the rest of the body has differentiated to another. See Frank P. M. Kruijver et al., *Male-to-Female Transsexuals Have Female Neuron Numbers in a Limbic Nucleus*, 85 J. CLIN. ENDOCRINOLOGY & METABOLISM 2034 (2000); see also [*705] discussion in *Bellinger v. Bellinger*, [2001] EWCA Civ. 1140, [2002] Fam. 150 (C.A. 2001).

Transsexualism was once regarded as a form of sexual or psychological deviance and, in some quarters, is still considered so today. See, e.g., *Hartin v. Bureau of Records*, 75 Misc. 2d 229, 347 N.Y.S.2d 515, 518 (N.Y. Sup. Ct. 1973) (where the New York Board of Health described [***23] sex reassignment surgery as "an experimental form of psychotherapy by which mutilating surgery is conducted on a person with the intent of setting his mind at ease, and that nonetheless, does not change the body cells governing sexuality."); *Corbett v. Corbett*, [1970] 2 All E.R. 33, 2 W.L.R. 1306 (Probate, Divorce, and Admiralty Div. 1970) (finding litigant's transsexualism to be a "psychological abnormality"); *Maggert v. Hanks*, 131 F.3d 670, 671 (7th Cir. 1997) (in describing transsexual wishing to undergo sex reassignment surgery, court observed that "someone eager to undergo this mutilation is plainly suffering from a profound psychiatric disorder.").

Recent studies have suggested that this condition may be associated with certain conditions in the womb and certain processes in the developing pre-natal brain. As noted, there is evidence suggesting that the brain differentiates into "male" and "female" brains, just as the fetus's rudimentary sex organs differentiate into "male" and "female" genitalia. See Diamond & Sigmundson, *supra*, 151 ARCHIVES PED. & ADOLESCENT MED. at 303. These studies, the authors assert, "clearly support the paradigm [***24] that in transsexuals sexual differentiation of the brain and genitals may go into opposite directions and point to a neurobiological basis of gender identity disorder." *Id.*; see also *Kruijver et al.*, *supra*, 85 J. CLIN. ENDOCRINOLOGY & METABOLISM at 2034; see also Jiang-Ning Zhou et al., *A Sex Difference in the Human Brain and its Relation to Transsexuality*, 378 NATURE 68 (1995). Researchers theorize that the developing brain may differentiate in

response to hormonal levels in the womb - "intrauterine androgen exposure." Reiner, *supra*, 151 ARCHIVES PED. & ADOLESCENT MED. at 224. This hypothesis has been tested with animals. See John Money, *The Concept of Gender Identity Disorder in [*706] Childhood and Adolescence After 39 Years*, 20 J. SEX & MARITAL THERAPY 163, 170 (1994). Research has indicated, for instance, that the sexual differentiation [**77] of primates may be manipulated by controlling prenatal hormone exposure. See Robert W. Goy et al., *Behavioral Masculinization is Independent of Genital Masculinization in Prenatally Androgenized Female Rhesus Macaques*, 22 HORMONES & BEHAVIOR 552 (1988). Such experimental results have been cited by at least one court. [***25] See *Doe v. McConn*, 489 F. Supp. 76, 78 (S.D. Tex. 1980) (describing the results of experiments discussed above).

The studies imply that transsexualism may be more similar to other physiological conditions of sexual ambiguity, such as androgen insensitivity syndrome, than to purely psychological disorders. Reiner posits:

"What can be stated is that the absence of prenatal androgen exposure, whether a child is XX, XO, has an androgen insensitivity syndrome, and so on, may render the brain to the default, or female, position. Within the potential for transformation from the default brain to the virilized brain is the opportunity for errors of incomplete or improperly timed androgen exposure. Such errors, in addition to acquired, sometimes iatrogenic, post-natal injuries . . . may lead to the misassignment or reassignment of sex at birth from the genetic sex."

Reiner, *supra*, 151 ARCHIVES PED. & ADOLESCENT MED. at 225. The ultimate conclusion of such studies, which, as noted, is the central point sought to be made by transsexuals, is that the preeminent factor in determining gender is the individual's own sexual identity as it has developed in the brain. [***26] Reiner continues:

"In the end it is only the children themselves who can and must identify who and what they are. It is for us as clinicians and researchers to listen and to learn. Clinical decisions must ultimately be based not on anatomical predictions, nor on the 'correctness' of sexual function, for this is neither a question of morality nor of social consequence, but on that path most appropriate to the likeliest psychosexual [*707] developmental pattern of the child. In other words, the organ that appears to be critical to psychosexual development and

adaptation is not the external genitalia, but the brain."

Reiner, *supra*, at 225.

Regardless of its cause, the accounts from transsexuals themselves are startlingly consistent. See, e.g., *In re Estate of Gardiner*, 273 Kan. 191, 42 P.3d 120 (Kan. 2002); *Littleton v. Prange*, 9 S.W.3d 223, 224 (Tex. Ct. App. 1999); *M.T. v. J.T.*, 140 N.J. Super. 77, 355 A.2d 204, 205 (N.J. Super. Ct. App. Div. 1976). They grow up believing that they are not the sex that their body indicates they are. They believe that they have mistakenly grown up with the wrong genitalia. These disconcerting feelings often begin early in childhood, [***27] as early as three or four years. See, e.g., *Littleton, supra*, 9 S.W.3d at 224; *M.T., supra*, 355 A.2d at 205 (where the expert witness testified that "there was . . . 'very little disagreement' on the fact that gender identity generally is established 'very, very firmly, almost immediately, by the age of 3 to 4 years.'"); *Doe v. McConn*, 489 F. Supp. 76, 78 (S.D. Tex. 1980) ("Most, if not all, specialists in gender identity are agreed that the transsexual condition establishes itself very early, before the child is capable of elective choice in the matter"). These individuals often rebel against any attempt to impose social gender expectations that are inconsistent with what they believe they are - they may refuse to wear the "appropriate" clothes and refuse to participate in activities associated with their assigned gender. See, e.g., *M.T., supra*, 355 A.2d at 205; see also Diamond & Sigmundson, *supra*, 151 ARCHIVES PED. & ADOLESCENT MED. at 299-301. [**78] That kind of behavior has become one of the determining factors for a diagnosis of gender identity disorder.

A transsexual wishing to transition to a different gender has limited options. [***28] See HARRY BENJAMIN INTERNATIONAL GENDER DYSPHORIA ASSOCIATION, STANDARDS OF CARE FOR GENDER IDENTITY DISORDERS (5th ed. 1998). Generally, the options consist of psychotherapy, living as a person of the desired sex, hormonal treatment, and sex reassignment surgery. Although psychotherapy may help the transsexual deal with the psychological [*708] difficulties of transsexualism, courts have recognized that psychotherapy is not a "cure" for transsexualism. *McConn, supra*, 489 F. Supp. at 78. Because transsexualism is universally recognized as inherent, rather than chosen, psychotherapy will never succeed in "curing" the patient:

"Most, if not all, specialists in gender identity are

agreed that the transsexual condition establishes itself very early, before the child is capable of elective choice in the matter, probably in the first two years of life; some say even earlier, before birth during the fetal period. These findings indicate that the transsexual has not made a choice to be as he is, but rather that the choice has been made for him through many causes preceding and beyond his control. Consequently, it has been found that attempts to treat the true adult transsexual psychotherapeutically [***29] have consistently met with failure."

McConn, supra, 489 F. Supp. at 78.

Hormonal treatment has been shown to be more effective, and, for the male-to-female transsexual, results in breast growth, feminine body fat distribution, a decrease in body hair, and softening of the skin. Although most of these effects are reversible upon termination of the treatment, the individual's breast growth may not reverse entirely. Hormonal treatment for female-to-male transsexuals results in deepening of the voice, enlargement of the clitoris, breast atrophy, increased upper body strength, weight gain, increased facial and body hair, baldness, increased sexual arousal, and decreased hip fat.

Surgical options for the male-to-female transsexual include orchiectomy (removal of gonads), vaginoplasty (construction of vagina), and mammoplasty (construction of breasts). Jerold Taitz, *Judicial Determination of the Sexual Identity of Post-operative Transsexuals: A New Form of Sex Discrimination*, 13 AM. J. L. & MED. 53, 55-56 (1987). Some patients elect to undergo additional cosmetic surgeries to enhance other secondary sex features, such as facial structure or voice tone. Surgical [***30] options for the female-to-male transsexual include [*709] mastectomy, hysterectomy, vaginectomy, and phalloplasty. As most health insurance companies currently exclude coverage for transsexual treatment, the out-of-pocket cost is often prohibitively expensive. Taitz, *supra*, at 55-56; *Maggert v. Hanks*, 131 F.3d 670, 672 (7th Cir. 1997). One commentator has asserted that a male-to-female operation costs an average of \$ 37,000, whereas the average female-to-male operation costs \$ 77,000. Aaron C. McKee, *The American Dream - 2.5 Kids and a White Picket Fence: The Need for Federal Legislation to Protect the Insurance Rights of Infertile Couples*, 41 WASHBURN L.J. 191, 198 (2001). Another estimate describes the cost as "easily reaching \$ 100,000." *Maggert, supra*, 131 F.3d at 672. Contributing to the

much higher cost of female-to-male sex reassignment surgery is the increased technical difficulty of phalloplasty, estimates for which range from \$ 30,000 to \$ 150,000. See Shana Brown, *Sex Changes and "Opposite Sex" Marriage: Applying the Full Faith and Credit Clause to Compel Interstate* [**79] *Recognition of Transgendered Persons' Amended Legal Sex for Marital* [***31] *Purposes*, [38 SAN DIEGO L. REV. 1113, 1127 n.79 \(2001\)](#); Patricia A. Cain, *Stories From the Gender Garden: Transsexuals and Anti-Discrimination Law*, [75 DENV. U. L. REV. 1321, 1334 n.59 \(1998\)](#). The procedure may require several operations.

Estimates of the number of intersexed individuals vary considerably, from 1 per 37,000 people (see Taitz, *supra*, 13 AM. J. L. AND MED. at 56) to 1 per 2,000 (see Hermer, *supra*, 11 ANN. HEALTH L. at 195) to as high as 3 per 2,000 (see Dreger, *supra*, at 42). It seems to be a guess, although Dreger suggests that "the frequency of births in which the child exhibits a condition which today could count as 'intersexual' or 'sexually ambiguous' is significantly higher than most people outside the medical field (and many inside) assume it is." Dreger, *supra*, at 42.

In reviewing the medical literature, we have avoided making pronouncements of our own, but have simply recounted some of the assertions and conclusions that appear in that literature - assertions and conclusions which, when presented in the form of testimony in court, have evoked differing responses [**710] from the courts, [***32] both in the United States and elsewhere. Notwithstanding that this remains an evolving field, in which final conclusions as to some aspects may be premature, the current medical thinking does seem to support at least these relevant propositions: (1) that external genitalia are not the sole medically recognized determinant of gender; (2) that the medically recognized determinants of gender may sometimes be either ambiguous or incongruent; (3) that due to mistaken assumptions made by physicians of an infant's ambiguous external genitalia at or shortly after birth, some people are mislabeled at that time as male or female and thereafter carry an official gender status that is medically incorrect; (4) that at least some of the medically recognized determinants of gender are subject to being altered in such a way as to make them inconsistent with the individual's officially declared gender and consistent with the opposite gender; and (5) whether or not a person's psychological gender identity is physiologically based, it has received recognition as one of the determinants of gender and plays a powerful

role in the person's psychic makeup and adaptation.

For our purposes, the relevance [***33] of these propositions lies in the facts [HN1\[↑\]](#) that (1) gender itself is a fact that may be established by medical and other evidence, (2) it may be, or possibly may become, other than what is recorded on the person's birth certificate, and (3) a person has a deep personal, social, and economic interest in having the official designation of his or her gender match what, in fact, it always was or possibly has become.⁷ The issue then becomes the circumstances under which a court may declare one's gender to be other than what is officially recorded and the criteria to be used in making any such declaration.

Jurisdiction of Circuit Court

In construing petitioner's action as one for declaratory judgment, the Court of Special Appeals in effect [***34] created a straw man of its own and then, to petitioner's detriment, knocked it down. It concluded that "since the petition sought a general order changing appellant's legal sexual identity, such relief must be categorized as [**80] a declaratory judgment" and then found that, as no one contested the relief sought by petitioner, there was no justiciable controversy, which is a prerequisite to a declaratory judgment action. The court went on to rule that, because a remedy was not currently available to petitioner under the Declaratory Judgment Act, the Circuit Court had no jurisdiction in the matter.

We agree that, in the circumstances of this case, a declaratory judgment would have been inappropriate, as no one has contested petitioner's claim that he had successfully transitioned to become a woman and was entitled to be declared as such. Although [HN2\[↑\]](#) [§ 3-403\(a\) of the Courts and Judicial Proceedings Article](#) gives broad authority to the Circuit Court to "declare rights, status, and other legal relations whether or not further relief is or could be claimed," [HN3\[↑\]](#) [§ 3-409](#), which governs the appropriateness of declaratory relief in a civil action not founded specifically [***35] on a contract, deed, trust, will, land patent, statute, or administrative regulation, authorizes the court to grant a declaratory judgment if it will terminate the uncertainty or controversy giving rise to the proceeding *and* (1) an

⁷ Indeed, that interest has received recognition as a "right" under the European Convention for the Protection of Human Rights and Fundamental Freedoms. See *Goodwin v. United Kingdom*, [2002] 2 FCR 577, 67 BMLR 199 (European Court of Human Rights (Grand Chamber) 2002). [**711]

actual controversy exists between contending parties, (2) antagonistic claims are present between the parties which indicate imminent and inevitable litigation, or (3) a party asserts a legal relation, status, right, or privilege that is challenged or denied by an adverse party. None of those conditions exist here. See [Tanner v. McKeldin](#), 202 Md. 569, 576-77, 97 A.2d 449, 452 (1953).

We do not agree, [HN4](#) for declaratory judgment purposes, that the lack of an actual contest involving an adverse party is a *jurisdictional* defect, as contrasted to one that simply makes relief under the Declaratory Judgment Act inappropriate, but [*712] the end result, with respect to a declaratory judgment proceeding, is the same. See [Reyes v. Prince George's County](#), 281 Md. 279, 380 A.2d 12 (1977); compare [Harford County v. Schultz](#), 280 Md. 77, 371 A.2d 428 (1977).

Of greater importance, we disagree with the intermediate appellate [*36] court's conclusion that there is no other basis of jurisdiction to consider the petition and, should the case for it be made, to grant the relief requested by petitioner. This was not an action under the Declaratory Judgment Act, and, although had there been an actual contest, the relief sought by petitioner could, if warranted by the evidence, be afforded under that Act, the petitioner's right to seek that relief is not limited to or dependent upon the Declaratory Judgment Act. The Circuit Court has Constitutionally-based, and statutorily recognized, equitable jurisdiction to consider and rule upon the petition.

[HN5](#) [Article IV, § 20 of the Maryland Constitution](#) provides for a Circuit Court in Baltimore City and each of the State's 23 counties, and it vests those courts, within their respective geographic boundaries, with "all the power, authority and jurisdiction, original and appellate, which the Circuit Courts of the counties exercised on [November 4, 1980] and the greater or lesser jurisdiction hereafter prescribed by law." Implementing that Constitutional provision, the General Assembly has provided in Maryland Code, [§ 1-501 of the Courts and Judicial Proceedings Article](#) [*37], that the Circuit Courts "are the highest common-law and equity courts of record exercising original jurisdiction within the State" and that each has "full common-law and equity powers and jurisdiction in all civil and criminal cases within its county, and all the additional powers and jurisdiction conferred by the Constitution and by law, except where by law jurisdiction has been limited or [*81] conferred exclusively upon another tribunal."

[HN6](#) Equity jurisdiction initially encompassed the

enforcement of rights not otherwise enforceable, and the provision of remedies not otherwise available, in the common law courts - appeals to Justice. Over time, the initial scope of that jurisdiction has [*713] expanded; many of the actions, rights, and remedies now recognized as within the domain of the equity courts were not there in the beginning but were added through the historical development and expansion of equity jurisprudence, often by statute. As Justice Story observed, "every just order or rule known to equity courts was born of some emergency, to meet some new conditions, and was, therefore, in its time, without a precedent." 1 JOSEPH STORY, COMMENTARIES ON EQUITY JURISPRUDENCE § 95 at 96 (14th [*38] ed. 1918). See also [Wentzel v. Montgomery Gen. Hosp.](#), 293 Md. 685, 706, 447 A.2d 1244, 1255 (1982), where Judge Smith, in a concurring and dissenting opinion, quoted approvingly from C. Phelps, JURIDICAL EQUITY 213 (1894) that "equity . . . recognizes new adjustments for new situations, not upon a dogmatic basis, but upon principles which address themselves to the conscience and intelligence, and therefore admit of a rational and progressive development."

Among the categories of remedies that were added over time were those that establish, declare, alter, or terminate some aspect of personal legal status. Professor Pomeroy notes that those kinds of remedies were not part of the original jurisdiction of chancery and were added largely (though not entirely) by statute. 1 JOHN N. POMEROY, A TREATISE ON EQUITY JURISPRUDENCE, § 112 at 149 (5th ed. 1941). Pomeroy lists as examples within that category actions for divorce or annulment of marriage and proceedings to declare a person of unsound mind or a habitual drunkard.

There are, indeed, a number of actions over which the equity courts in Maryland have been given jurisdiction that (1) establish, define, declare, alter, [*39] or terminate the personal or legal status of an individual, (2) may or may not be contested, and (3) may or may not be cognizable under the Declaratory Judgment Act. The most common is that of divorce, which is specifically excluded from the Declaratory Judgment Act. See Md. Code, [§ 3-409\(d\) of the Courts and Judicial Proceedings Article](#). In England, actions for divorce were within the jurisdiction of the Ecclesiastical courts, not the Chancery Court; in Maryland, until 1841, they fell within the exclusive [*714] jurisdiction of the General Assembly which, in that regard, assumed the role of the Ecclesiastical court. Concurrent jurisdiction over divorce actions was first placed in the equity courts

in Maryland in 1841 (see 1841 Md. Laws, ch. 262), and not until the Constitution of 1851 expressly terminated the power of the Legislature to grant divorces did equity jurisdiction over divorce become exclusive. See Thomas v. Thomas, 294 Md. 605, 611, 451 A.2d 1215, 1218 (1982). The equity courts also have statutorily-granted jurisdiction over actions to annul a marriage and over the custody of children. See § 1-201 of the Family Law Article.

[***40] Actions to declare a person disabled and to appoint a guardian for the person or property of such a person are within the jurisdiction of equity courts. See Maryland Code, title 13 of the Estates and Trusts Article. Paternity actions under § 5-1005 of the Family Law Article and actions under § 1-208 of the Estates and Trusts Article by a putative father to declare his parentage are filed in the equity courts. Courts of equity have jurisdiction to terminate parental rights, subject to [**82] Constitutional constraints and upon the conditions set forth by the Legislature, and to enter judgments of adoption. See title 5, subtitle 3 of the Family Law Article. They have jurisdiction to consider and grant petitions by persons to change their names. See Maryland Rule 15-901. When acting as a juvenile court, the Circuit Court exercises equitable jurisdiction and, pursuant to that jurisdiction, may declare a child delinquent or in need of assistance or supervision.

If a person can show that his or her name or date of birth, as it appears on the person's birth certificate, is incorrect and the Secretary of Health and [***41] Mental Hygiene, for whatever reason, refuses to make the correction absent a court order (even if the Secretary does not contest the person's evidence), we have no doubt that a Circuit Court, exercising its equity jurisdiction, could entertain a complaint and, if satisfied that the document was, indeed, mistaken, order a change. All of these kinds of actions relate principally to the legal status or identification of an individual, and, while often contested, they are often uncontested and declaratory in nature. There is [*715] nothing extraordinary about equity jurisdiction in these kinds of matters. In some instances, the equitable relief might be available in a declaratory judgment action, if the statutory requisites for such an action exist, but HN7 [↑] the availability or non-availability of that form of action does not define or limit the extent of equity jurisdiction. The function of the Declaratory Judgment Act was to supplement, not limit, the remedies available at law or equity. See Schultz v. Kaplan, 189 Md. 402, 409, 56 A.2d 17, 20 (1947); Himes v. Day, 254 Md. 197, 206, 254 A.2d 181, 186 (1969).

The statute referenced by petitioner - § 4-214(b)(5) of the Health-General Article [***42] - has significant relevance in this regard. It provides that HN8 [↑] "upon receipt of a certified copy of an order of a court of competent jurisdiction indicating the sex of an individual born in this State has been changed by surgical procedure and whether such individual's name has been changed, the Secretary shall amend the certificate of birth of the individual as prescribed by regulation." Although petitioner was not seeking relief under that statute and, because he was not born in Maryland and has no Maryland birth certificate, would not be entitled to relief under it, HN9 [↑] the statute, along with other statutes in the subtitle of which it is a part, evidences a clear recognition by the General Assembly that a person's gender can be changed and that there are courts with jurisdiction to consider and determine whether that has occurred.

Section 4-214(b)(5) was enacted in 1995 as part of a more comprehensive revision of the laws relating to vital records. See 1995 Md. Laws, ch. 97. It derives, almost verbatim, from § 21(e) of a Model State Vital Statistics Act developed by the U.S. Department of Health, Education, and Welfare (HEW) in 1977 and revised in 1992. Although neither the Department [***43] of Health and Human Services (HHS)- the successor agency to HEW - nor the Library of Congress appear to have any records relating to the development of § 21(e) of the Model Act, a 1997 HHS publication indicates that a Model Act dealing with vital records was first proposed, by the Bureau of the Census, in 1907 and that updated versions were approved [*716] in 1942, 1959, 1977, and 1992. See *U.S. Vital Statistics System Major Activities and Developments, 1950-95*, U.S. Department of Health and Human Services, Centers for Disease Control and Prevention, National Center for Health Statistics, at 5-6 (1997). The major thrust of the 1977 proposal was to create a centralized system in each State for the collection, [**83] processing, registration, and certification of vital records, rather than to continue to have this important function carried out disparately by local offices. *Id.* at 6. The 1992 revision was intended to produce a practical model that "most States could adopt with few modifications," that would be flexible enough to accommodate new technologies. *Id.*

The 1977 version of the proposed Model Act, which was approved by the Association of State and Territorial Health Officials, [***44] the American Association for Vital Records and Public Health Statistics, and the United States Public Health Service, contains no specific commentary with respect to § 21(e). It does

note, however, that, among the purposes of the proposed Act, were "to incorporate current social customs and practices and current technology into the policies and procedures of the vital statistics system in the various States," to promote uniformity of those policies and procedures so that vital records will be acceptable everywhere as prima facie evidence of the facts recorded, and to enhance the level of comparability of vital statistics data among the States.

There is very little legislative history available with respect to the 1995 Maryland enactment. The House and Senate Committees that considered the measure (House Bill 1068) expressly noted the provision in [§ 4-214\(b\)\(5\)](#). The Bill Analysis prepared for the House Environmental Matters Committee states that "when the Secretary receives an order from a court of competent jurisdiction that an individual born in Maryland has had a sex change operation, and indicates a name change, the birth certificate must be amended per regulation." The Bill [***45] Analysis prepared for the Senate Economic and Environmental Affairs Committee contains similar language. The Senate Committee also noted that the bill was intended to assure that the Maryland law "reflects legal [*717] mandates recommended in the Model Act which is published by the U.S. Department of Health and Human Services as a guide for vital records health statistics programs nationally."

It appears that 22 States and the District of Columbia have enacted statutes expressly enabling a person who has undergone a change in gender to have his or her birth certificate amended to reflect the change. Most of those statutes require a court order based on evidence of a surgical procedure, although a few allow an amendment without a court order and three do not require a surgical procedure.⁸ About [**84] 20 States

have statutes dealing generally with amendments to birth certificates but which do not speak expressly, one way or the other, to gender changes. Only one State - Tennessee - statutorily forbids a change in birth certificate by reason of gender change. See [TENN. CODE ANN. § 68-3-203](#) (2002).

[***46] Viewed against this background, it is clear that, in enacting [§ 4-214\(b\)\(5\)](#), the Legislature necessarily recognized the jurisdiction of the Circuit Courts to consider and grant petitions to declare a change in gender; indeed, that section could have no other rational meaning. The statute directs the Secretary to amend a birth certificate upon a court order declaring that, as a result of surgery, a gender change has occurred. It does not purport to grant any new jurisdiction to the Circuit Courts - the only courts that would otherwise be competent to enter such an order - and therefore must be taken as a recognition that such jurisdiction already existed.

That conclusion finds support not only in the history of the legislation - its derivation from a Model Act and the relatively consistent enactments by many other States - but also from other provisions in the Maryland Act. Both the Model Act and the Maryland statute anticipate and recognize a number of different kinds of court orders

(same); [IOWA CODE § 144.23](#) (2002) (physician affidavit and surgery "or other treatment"); [LA. REV. STAT. ANN. § 40:62](#) (2002) (order of court of competent jurisdiction and surgery required); [MASS. ANN. LAWS ch. 46, § 13](#) (2002) (same); [MICH. COMP. LAWS § 333.2831](#) (2002) (affidavit of physician certifying sex reassignment surgery); [MISS. CODE ANN. § 41-57-21](#) (2001) (registrar may correct certificate that contains incorrect sex on affidavit of two persons having personal knowledge of facts; not clear whether restricted to initial error in certificate or includes gender change); [MO. REV. STAT. § 193.215](#) (2001) (order of court of competent jurisdiction and surgery required); [NEB. REV. STAT. § 71-604.01](#) (2002) (affidavit of physician as to sex reassignment surgery and order of court of competent jurisdiction changing name required); [N.J. STAT. ANN. 26:8-40.12](#) (2002) (certificate from physician attesting to surgery and order of court of competent jurisdiction changing name); [N.M. STAT. ANN. § 24-14-25](#) (2002) (same); [N.C. GEN. STAT. 130A-118](#) (2001) (affidavit of physician attesting to sex reassignment surgery); [OR. REV. STAT. § 432.235](#) (2001) (order of court of competent jurisdiction and surgery required); [UTAH CODE ANN. § 26-2-11](#) (2002) (order of Utah District Court or court of competent jurisdiction of another State required; no specific requirement of surgery); [VA. CODE ANN. § 32.1-269](#) (2002) (order of court of competent jurisdiction indicating sex has been changed by "medical procedure"); [WIS. STAT. § 69.15](#) (2001) (order of court or administrative order).

⁸ See [ALA. CODE, § 22-9A-19](#) (2002) (order of court of competent jurisdiction and surgery required); [ARIZ. REV. STAT. § 36-326](#) (2001) (change may be made based on sworn statement from licensed physician attesting to either surgical operation or chromosomal count, although registrar may require further evidence); [ARK. CODE ANN. § 20-18-307](#) (2002) (order of court of competent jurisdiction and surgery required); [CAL. HEALTH & SAFETY CODE, § 103425, 103430](#) (2002 Supp.) (court order and surgery apparently required); [COL. REV. STAT. ANN. § 25-2-115](#) (2002) (same); [D.C. CODE ANN. § 7-217](#) (2002) (same); [GA. CODE ANN. § 31-10-23](#) (2002) (same); [HAW. REV. STAT. § 338-17.7](#) (2002) (physician affidavit and surgery required; registrar can require additional information); [410 ILL. COMP. STAT. 535/17](#) (2002)

that affect vital records. Section 4-211(a), for example, requires the Secretary of Health and Mental Hygiene to issue a new birth certificate for an individual upon receiving proof that "[a] court [***47] of competent jurisdiction has entered an order as to the parentage, legitimation, or adoption of the individual." Section 4-211(b) permits the Secretary to issue a new birth certificate for a person born outside the United States upon receipt of such an order. Section 4-211(i) requires the Secretary, on request, to prepare and register a certificate for a non-citizen born in a foreign country who is adopted "through a court of competent jurisdiction in this State." [Section 4-214\(c\)\(1\)](#) requires the Secretary to change the name on a birth certificate on receipt of a court order that changes the name of an individual who was born in this State. As noted, those kinds of orders, commonly [*719] issued by the Circuit Courts, also are declaratory of a change in a person's legal status or identification.

The fact that [§ 4-214\(b\)\(5\)](#) directly operates only with respect to a Maryland birth certificate does not detract in the least from the legislative recognition of jurisdiction to entertain and grant petitions such as the one before us. Obviously, the Legislature cannot direct officials in other States to change birth certificates issued in those States but may deal only with birth certificates issued [***48] or issuable in Maryland, and that is the thrust of the statute. The jurisdiction of Maryland courts is not limited by the birthplace of the parties seeking relief, however, so by recognizing the authority of the Circuit Courts to enter gender-change declarations with respect to persons born in Maryland, it necessarily recognizes as well their jurisdiction to enter such orders on [**85] behalf of anyone properly before the court. Indeed, any other conclusion would raise serious Constitutional issues under the Equal Protection and Privileges and Immunities Clause of the *14th Amendment to the United States Constitution*.

As should be evident, we do not rest our holding that the Circuit Court had jurisdiction over Mr. Heilig's petition solely on the basis of [§ 4-214\(b\)\(5\)](#), but rather on the conclusion that his action fell within the general equity jurisdiction of the court. [Section 4-214\(b\)\(5\)](#) simply recognizes the existence of that jurisdiction. *Nor do we opine on what the collateral effect of any judgment attesting to a change in gender might be.* ⁹ [***49] We

hold only that the court [**86] had jurisdiction to consider [*721] and rule upon the petition. ¹⁰

What Must Be Shown?

Most courts and other agencies that have dealt with establishing the gender of transsexuals have done so in particular contexts and have set the requirements for such recognition accordingly. To warrant amending a birth certificate, Maryland (and most States that permit such a change at all) requires by statute a finding that

contexts and have a wide variety of collateral consequences. It may affect or determine, for example, the validity of a marriage, whether a birth certificate may be amended, entitlement to pension or insurance rights that distinguish by gender, whether distinctions in employment are, as to a particular individual, permissible or unlawful, application of the law of rape or other offenses in which gender may be an element or issue, medical treatment and housing assignment upon incarceration or other institutional confinement, entitlement to participate in certain amateur or professional sports (see [Richards v. United States Tennis Ass'n](#), 93 Misc. 2d 713, 400 N.Y.S.2d 267 (N.Y. Sup. Ct. 1977)), and housing

⁹ As pointed out in *Goodwin v. United Kingdom*, [2002] 2 FCR 577, 67 BMLR 199 (Eur. Ct. H.R. (Grand Chamber) 2002), the issue of a transsexual's true gender can arise in many different

372 Md. 692, *721; 816 A.2d 68, **86; 2003 Md. LEXIS 31, ***49

gender *has been changed* "by surgical procedure." ¹¹

and work assignments available for persons in military service. In Comment, *Transsexuals in Limbo: The Search for a Legal Definition of Sex*, 31 MD. L. REV. 236, 247-51 (1971), the unnamed author noted the possible effect of gender change on various estate and trust issues, questioning, for example, whether a male to female transsexual would still qualify for a legacy to the testator's "son."

Most cases in which the gender of a transsexual is at issue have arisen in the context of marriage, and the prevailing sentiment in the United States seems to be that, absent legislation to the contrary, marriage between a transsexual and a person of the transsexual's initial assigned gender is not permitted, even when the transsexual has undergone surgery. Many of the courts expressing that view have followed the lead of the English court in *Corbett v. Corbett*, [1970] 2 All E.R. 33, 2 W.L.R. 1306 (Probate, Divorce, and Admiralty Div. 1970), which initially set the law for England in this regard. Based on the medical evidence presented in that case, the *Corbett* court concluded that "the biological sexual constitution of an individual is fixed at birth (at the latest), and cannot be changed, either by the natural development of organs of the opposite sex, or by medical or surgical means," and "the only cases where the term 'change of sex' is appropriate are those in which a mistake as to sex is made at birth and subsequently revealed by further medical investigation." See [In re Ladrach](#), 32 Ohio Misc. 2d 6, 513 N.E.2d 828 (Ohio Probate Ct. 1987). In [Frances B. v. Mark B.](#), 78 Misc. 2d 112, 355 N.Y.S.2d 712 (N.Y. Sup. Ct. 1974), the court based its rejection of a marriage on the fact that, under New York law, physical incapacity for a sexual relationship was a ground for annulment. It thus concluded that, as a female to male transsexual, even after surgery, was incapacitated in that regard, the transsexual's marriage to a woman was invalid. See also [Littleton v. Prange](#), 9 S.W.3d 223 (Tex. Ct. App. 1999) (biologically, post-operative female transsexual still a male); [In re Estate of Gardiner](#) 273 Kan. 191, 42 P.3d 120 (Kan. 2002) (same); but compare [M.T. v. J.T.](#), 140 N.J. Super. 77, 355 A.2d 204 (N.J. Super. Ct. App. Div. 1976) (rejecting *Corbett* and recognizing as valid a marriage involving post-operative transsexual).

The holding in *Corbett* was reexamined but confirmed in England in [Bellinger v. Bellinger](#), [2001] EWCA Civ. 1140, [2002] Fam. 150 (C.A. 2001). That view is not shared in other countries, however, including at least two that are regarded as common law countries. Australia and New Zealand recognize such marriages when the transsexual has undergone surgery. See [In re Kevin](#), 28 Fam. L.R. 158 (Family Ct. of Australia 2001); [Attorney General v. Otahuhu Family Court](#), [1995] 1 N.Z.L.R. 603 (High Court Wellington, N.Z. 1994). In [Goodwin v. United Kingdom](#), *supra* [2002] 2 F.C.R. 577, 67 BMLR 199 (Eur. Ct. H.R. (Grand Chamber) 2002), the European Court of Human Rights noted a report indicating that 20 European countries (Austria, Belgium, Denmark, Estonia, Finland, France, Germany, Greece, Iceland, Italy, Latvia, Luxembourg,

Those courts that have permitted transsexuals to marry someone of their former gender have also uniformly required surgery as a condition to recognizing [***50] a change in gender.

Surgery seems to be a requirement for recognition of gender change in other contexts as well. The Social Security Administration apparently will alter its records to record a change of gender but requires "clinical or medical records or other combination of documents showing the sex change surgery has been completed." See *SSA Program Operations [*722] Manual System RM 00203.210 (Changing Numident Data)*, § C at 4. For a similar requirement in other social security systems, see [***51], *Department of Social Security v. SRA*, 118 A.L.R. 467 (Fed. Ct. Australia, Gen. Div. 1993) (for purposes of receiving social security benefits under Australian law as wife of disabled pensioner). In the Federal prison system, pre-operative transsexuals are housed with inmates of their birth gender, but post-

the Netherlands, Norway, Slovakia, Spain, Sweden, Switzerland, Turkey, and the Ukraine) also permitted a post-operative transsexual to marry a person of his/her original gender and concluded that England's refusal to recognize such marriages violated the personal rights of the transsexual under Articles 8 and 12 of the Convention for the Protection of Human Rights and Fundamental Freedoms (Art. 8: Everyone has the right to respect for his private . . . life; Art. 12: Men and women of marriageable age have the right to marry and to found a family, according to the national laws governing the exercise of this right).

This is an issue that is not before us in this case and upon which we express no opinion.

¹⁰ The question may be raised, of what use is a judgment declaring that a person's gender has been changed if we do not specify the effect of such a judgment? The answer is that [HN10](#) courts rarely specify the collateral effect of their judgments, unless it is raised as a justiciable issue. The question in a case, ordinarily, is simply whether a party is entitled to the judgment, not what the party may do with it. What effect a judgment has depends on the law governing what the judgment holder seeks to do, and that is true in this regard as well.

¹¹ It appears to be undisputed that no surgery, however extensive, can make a transsexual fertile in his/her "new" gender. Neither male-to-female nor female-to-male transsexuals are capable of conceiving children once sex reassignment surgery has been completed. The fact that [§ 4-214\(b\)\(5\)](#) recognizes that surgery can effect a change in gender indicates, at least in the context of amending birth certificates, that infertility is not a basis for refusing to recognize the change.

operative transsexuals are housed with inmates of their acquired gender. See [Farmer v. Haas, 990 F.2d 319, 320 \(7th Cir. 1993\)](#). It has been reported, although there seems to be no official documentation, that the State Department will issue a temporary passport with a change of gender upon a certified letter from a physician stating that the applicant is about to undergo sex reassignment surgery and will issue a regular new passport showing such a change upon a certified letter stating that the applicant has undergone such surgery. See Greenberg, *supra*, 41 ARIZ. L. REV. at 315.

The statutes or regulations that make surgery a condition to recognition of gender change rarely, if ever, specify the kind of surgery that will suffice, although in the court cases there is usually considerable [**87] evidence regarding the nature and effect of any surgery that is undertaken and both [***52] the medical and legal literature describe it as well. The point, or relevance, of the requirement of surgery seems to lie in the assumption that, if the person has undergone sex reassignment surgery, the change has been effected, in that at least (1) the person's external genitalia have been brought into consistency with that indicative of the new gender and with other determinants of gender, and (2) the change is regarded as permanent and irreversible. Hormonal therapy alone, which usually can be terminated or perhaps even reversed, has not, to our knowledge, been recognized as effecting either a sufficient change or a permanent one.

Almost all courts have recognized that the question of whether and how gender can be changed is one where the law depends upon and, to a large extent, must follow medical facts (medical facts, in this context, to include relevant psychological facts). [HN11](#)¹ Any reasoned legal conclusion respecting an asserted [*723] change in one's gender must therefore be based on admissible evidence of medical fact - the factors that actually should be considered in determining gender and what the person's gender status is when viewed in the context of those factors. We have examined [***53] the literature available to us and recounted some of the evidence that other courts have found relevant, but only to establish the basis for our conclusion that the court has jurisdiction over petitions seeking recognition of gender change. None of what we have recounted is evidence in this case and therefore does not establish, by itself, petitioner's entitlement to the order he seeks.

This is, clearly, an evolving area. As noted, aside from the two unsworn letters attached to the petition and the Standards of Care of the Harry Benjamin International

Gender Dysphoria Association, no medical evidence was presented to the Circuit Court with respect to petitioner's gender status. Because we believe (1) that the court had jurisdiction to consider the petition, and (2) that, on the record before it, the court erred in broadly concluding, apparently as a matter of law, that gender was not subject to modification or adjustment, we shall direct that the case be remanded for the court to consider admissible evidence relevant to the issue and to make a determination of whether the relief requested by petitioner should be granted based on that evidence. As the seeker of relief, petitioner [***54] has the burden of establishing his entitlement to it, and it will therefore be incumbent upon him to present sufficient medical evidence of both the relevant criteria for determining gender and of the fact that, applying that criteria, he has completed a permanent and irreversible change from male to female.

JUDGMENT OF COURT OF SPECIAL APPEALS VACATED; CASE REMANDED TO THAT COURT WITH INSTRUCTIONS TO VACATE JUDGMENT OF CIRCUIT COURT FOR MONTGOMERY COUNTY AND REMAND CASE TO THAT COURT FOR FURTHER PROCEEDINGS IN CONFORMANCE WITH THIS OPINION; COSTS IN THIS COURT AND COURT OF SPECIAL APPEALS TO BE PAID BY PETITIONER.

End of Document

Appendix C1

Petition for Change of Name

IN THE MATTER OF	*	IN THE
[LEGAL NAME]	*	CIRCUIT COURT
[CLIENT ADDRESS]	*	
[CLIENT CITY, STATE, ZIP]	*	FOR [JURISDICTION]
FOR CHANGE OF NAME TO	*	
[NAME-TO-BE]	*	Case No.: _____
* * * * *		

VERIFIED PETITION FOR CHANGE OF NAME

NOW COMES Petitioner, [CURRENT LEGAL NAME], by and through [HIS/HER/THEIR]¹ attorney, [ATTORNEY NAME], Esq., and pursuant to Maryland Rule 15-901, respectfully petitions this Honorable Court for a change of name, thereby recognizing [HIS/HER/THEIR] name of common use, and in support states the following:

1. Petitioner is domiciled in [COUNTY OR BALTIMORE CITY], Maryland, residing at [# STREET, CITY, STATE ZIP CODE].
2. Petitioner was born on [MONTH DAY, YEAR] in [CITY, STATE]. *See* Exhibit 1, ***** EITHER ***** Certificate of Live Birth ***** OR ***** [TITLE OF DOCUMENT ESTABLISHING CURRENT NAME].
3. Petitioner was given the name [CURRENT LEGAL NAME] at birth. *See* Exhibit 1.
4. Petitioner has adopted [NAME-TO-BE] as [HIS/HER/THEIR] name of common use and has used that name consistently and nonfraudulently.
5. Petitioner does not request this change of name for the purpose of concealment or fraud.

¹ Petitioner uses [HE/HIM/HIS, SHE/HER/HERS, THEY/THEM/THEIRS, ETC.] pronouns, which will be used for Petitioner throughout this Petition and supported Motions and Memoranda.

6. Petitioner is not and never has been required to register as a sex offender.
7. ***** EITHER ***** Petitioner has not previously been known by any names other than the names discussed above. ***** OR ***** Petitioner has previously been known by the following names: **[DETAIL NAMES AND CIRCUMSTANCES OF CHANGE, E.G. MARRIAGE, PRIOR COURT ORDER, ETC.]**.

WHEREFORE, Petitioner respectfully requests that this Honorable Court change Petitioner's name from **[CURRENT LEGAL NAME]** to **[NAME-TO-BE]**.

Date: **[MONTH DAY, YEAR]**

Respectfully submitted,

[ATTORNEY NAME], Esq.
[CLIENT PROT FUND #]
[ORGANIZATION NAME]
[OFFICE ADDRESS]
[OFFICE ADDRESS]
t:[PHONE #]/ f:[FAX #]
e: [EMAIL ADDRESS]
Attorney for Petitioner

OATH

I solemnly declare and affirm under the penalties of perjury and upon personal knowledge that the factual contents of the above Petition are true.

Date

[CURRENT LEGAL NAME]

CERTIFICATE OF SERVICE

I hereby certify that Petitioner is the only party to this action, and therefore that no other party has been served with the foregoing Petition for Change of Name.

[ATTORNEY NAME], Esq.

Appendix C2

Affidavit of Indigence and Facts

IN THE MATTER OF

*

IN THE

[CURRENT LEGAL NAME]

*

CIRCUIT COURT

FOR CHANGE OF NAME TO

*

FOR [JURISDICTION]

[NAME-TO-BE]

*

Case No.: _____

* * * * *

AFFIDAVIT OF INDIGENCE AND FACTS

1. I am over 18 and competent to testify to the facts contained herein.
2. I am indigent and am unable pay the court costs associated with this action.
3. There [IS/ARE] [X] [MEMBER/MEMBERS] of my household.
4. My household's sole income consists of [SOURCE OF INCOME] in the total amount of [\$X.XX] per month.
5. I do not own any real property or have any additional assets besides my personal effects.
6. All facts contained in the Petition for Change of Name and Motion for Waiver of Publication or, in the alternative, for Notice by Posting are verified.

I, [CURRENT LEGAL NAME], the undersigned Petitioner, do solemnly affirm under the penalties of perjury and upon personal knowledge that the contents of the foregoing paper are true.

Date

[CURRENT LEGAL NAME]

Appendix C3

Motion for Waiver of Publication

IN THE MATTER OF

*

IN THE

[LEGAL NAME OF CLIENT]

*

CIRCUIT COURT

FOR CHANGE OF NAME TO

*

FOR [JURISDICTION]

[NAME-TO-BE]

*

Case No.: _____

* * * * *

**MOTION FOR WAIVER OF PUBLICATION OR, IN THE ALTERNATIVE, FOR
NOTICE BY POSTING**

Petitioner, [CURRENT LEGAL NAME], by and through undersigned counsel, and pursuant to Maryland Rule 15-901(e)(2), hereby moves for an Order waiving publication requirements. In support of this request, Petitioner states as follows:

1. Maryland Rule 15-901(e)(2) states that an action to change a name must be published in a newspaper, “unless the court on motion of the petitioner orders otherwise...” Indeed, the Attorney General opined that a court “may waive publication on motion of *any* petitioner, whether an adult seeking a personal name change or a parent seeking to have the name of a minor child changed....”¹

2. Petitioner is [A TRANSGENDER MAN/A TRANSGENDER WOMAN/NONBINARY]. [*** USE ALTERNATELY ***] Transgender individuals are those whose gender identity and/or expression differs from the sex they were assigned at birth. [*** OR ***] Nonbinary individuals are those who experience their gender identity and/or expression as falling outside the categories of male and female. Nonbinary individuals are included within the broader transgender community, which includes those whose gender

¹ 82 Md. Op. Att’y Gen. 44, 44 (1997) (emphasis added).

identity and/or gender expression differs from the sex they were assigned at birth.²

3. Petitioner requests waiver of publication in this case for two reasons. First, publication would make Petitioner's transgender status conspicuous, thus increasing the Petitioner's risk of being targeted for discrimination, harassment, and physical and sexual assault. Second, publication would pose a financial hardship to Petitioner, who is indigent.

4. People who are transgender are routinely targeted for discrimination, harassment, and physical and sexual assault. According to the 2015 U.S. Trans Survey, a survey conducted in 2015 that is the most comprehensive survey of the United States transgender community to date, over half of respondents who held a job in the past year indicated that they had to hide their transgender status at work to avoid discrimination in the past year, and over 20% reported firing or other employment-related mistreatment at work in the past year because they were transgender.³ Thirty percent of all respondents reported that they had experienced housing discrimination or homelessness in the past year because of their transgender status.⁴ Large percentages of transgender people report being subjected to harassment and even physical assault when their transgender status is made known at work, in educational settings, and in places of public accommodation.⁵

² See GLAAD, "GLAAD Media Reference Guide – Transgender," *available at* <https://www.glaad.org/reference/transgender> (last visited 12/26/19).

³ James, S. E., *et al.*, THE REPORT OF THE 2015 U.S. TRANSGENDER SURVEY at 151, 154 (National Center for Transgender Equality 2016), *available at* <http://www.transequality.org/sites/default/files/docs/USTS-Full-Report-FINAL.PDF>.

⁴ *Id.* at 178.

⁵ *Id.* at 153 (15% of respondents who held a job in past year reported being verbally harassed, physically attacked, and/or sexually assaulted at work in the past year because of their transgender status); 136 (24% of respondents who attended college or vocational school reported being verbally, physically, or sexually harassed at school because of their transgender status when their gender identity was known to classmates, professors or staff); 213 (31% of respondents who visited a place of public accommodation in the past year where

5. **[* IF APPLICABLE *]** Because Petitioner seeks to change **[HIS/HER/THEIR]** name from a traditionally **[FEMININE/ MASCULINE]** first name **[("CURRENT LEGAL NAME")]** to a traditionally **[MASCULINE/ FEMININE]** first name **[("NAME-TO-BE")]**, publication in this case would effectively "out" petitioner and publish **[HIS/ HER/THEIR]** transgender status in a newspaper of general circulation. Newspaper legal classified advertisements are routinely published concurrently on the internet, and so publication would have the effect of creating a permanent digital record effectively exposing Petitioner's transgender status to anyone with an internet connection who performs a "Google" search for **[HIS/HER/THEIR]** name.

6. Additionally, Petitioner requests waiver of publication on the ground of financial hardship. Waiver of publication may be granted "because the petitioner is unable to afford the cost of publication."⁶

7. Petitioner is indigent. The monthly income for Petitioner's entire household, consisting of **[SIZE OF HOUSEHOLD]**, consists of **[X]** dollars **[(\$XXXX.00)]** in employment income. Petitioner has signed an affidavit attesting to their indigence, which is hereto attached as Exhibit 1.

8. Petitioner is represented by pro bono counsel retained through FreeState Justice, an organization that receives funding from Maryland Legal Services Corporation to provide

staff or employees realized they were transgender experienced at least one type of negative experience due to their gender identity, including being denied equal treatment or service (14%), verbally harassed (24%), and/or physically attacked (2%); 89-90 (as a result of showing identification with a name or gender that did not match their gender presentation, 32% reported a negative experience, including verbal harassment (25%), denial of service (16%), and assault (2%)).

⁶ 82 Md. Op. Att'y Gen. at 47 (citing Rules Committee minutes).

civil legal services on behalf of low-income persons. Petitioner meets FreeState Justice's financial eligibility criteria for pro-bono representation.

9. Publication of notice of a change of name routinely costs between \$50 and \$150 (depending on the publication). As Petitioner's income falls within the eligibility guidelines for pro-bono representation, this cost would pose a hardship to Petitioner.

10. For some of the same reasons, Petitioner has also moved to seal the record in this case. In the event that the Court grants Petitioner's motion to seal, waiver of publication should necessarily follow, because publication of the case is fundamentally incompatible with sealing it from public view.

11. In the alternative, if the Court does not seal the case and does not waive publication entirely, the court "may order any other means of notice that it deems appropriate in the circumstances," Md. Rule 2-122(a)(3), rather than newspaper publication.

12. Petitioner thus asks the Court to waive publication altogether or, in the alternative, to allow Petitioner to satisfy the notice requirement via posting, pursuant to Maryland Rule 2-122(a)(1) "by the posting of the notice by the sheriff at the courthouse door or on a bulletin board within its immediate vicinity."

13. When providing notice per Maryland Rule 15-901(e)(2), publication must occur "at least fifteen days before the date specified in the notice for filing an objection to the petition." Accordingly, in the event that the Court orders notice by posting, Petitioner submits that the notice should be placed for 15 days.

14. Additionally, because the Sheriff's fee for posting (\$40-\$60, depending on jurisdiction) would pose a financial hardship, Petitioner respectfully requests that if notice by posting is ordered, that the Court order waiver of the Sheriff's posting fee.

WHEREFORE, Petitioner respectfully prays that this Honorable Court:

- a) Issue an Order waiving the publication requirements, and
- b) Grant such other and further relief as the nature of the case may require.

OR IN THE ALTERNATIVE

- a) Issue an Order waiving the publication requirements and directing that notice be by posting pursuant to Maryland Rule 2-122 for 15 days; and
- b) Issue an Order waiving the Sherriff's fee for posting pursuant to Maryland Rule 2-122; and
- c) Grant such other and further relief as the nature of the case may require.

Respectfully submitted,

Date: [MONTH, DAY, YEAR]

[ATTORNEY NAME], Esq.
[CPF#]
[ORGANIZATION NAME]
[OFFICE ADDRESS]
[OFFICE ADDRESS]
t:[PHONE #]/f:[FAX #]
e:[EMAIL ADDRESS]
Attorney for Petitioner

CERTIFICATE OF SERVICE

I hereby certify that Petitioner is the only party to this action, and therefore that no other party has been served with the foregoing Motion for Waiver of Publication or, in the Alternative, for Notice by Posting.

[ATTORNEY NAME], Esq.

Appendix C4

Proposed Order Waiving Publication

IN THE MATTER OF

[LEGAL NAME OF CLIENT]

FOR CHANGE OF NAME TO

[NAME-TO-BE]

*

*

*

*

IN THE

CIRCUIT COURT

FOR [JURISDICTION]

Case No.: _____

* * * * *

ORDER

UPON CONSIDERATION of Petitioner's Motion for Waiver of Publication or, in the alternative, for Notice by Posting, it is on this ____ day of _____, 20__, by the Circuit Court for [JURISDICTION],

ORDERED that:

_____ The requirement that publication be made in a newspaper of general circulation is hereby waived.

_____ The requirement that publication be made in a newspaper of general circulation is hereby waived, and notice shall be given by posting pursuant to Maryland Rule 2-122(a)(1) for 15 days.

_____ The requirement that the Petitioner pay the Sheriff's fee for posting pursuant to Maryland Rule 2-122(a)(1) is hereby waived.

JUDGE
Circuit Court for [JURISDICTION]

Appendix C5

Notice for Posting

IN THE MATTER OF

[LEGAL NAME OF CLIENT]

FOR CHANGE OF NAME TO

[NAME-TO-BE]

*

*

*

*

IN THE

CIRCUIT COURT

FOR [JURISDICTION]

Case No.: _____

* * * * *

NOTICE FOR POSTING

This is to give notice on this ____ day of _____, 20__, that a Petition for Change of Name was filed in the Circuit Court for [JURISDICTION] in the above-referenced case, stating in substance that the Petitioner wishes to change their name from [CURRENT LEGAL NAME] to [NAME-TO-BE] because it is the Petitioner's name of common use.

Notice is hereby issued by the Circuit Court for [JURISDICTION] to all interested parties that the relief sought in the aforementioned Petition may be granted, unless cause, if any, be shown, on or before the ____ day of _____, _____ why an Order should not be passed as requested, provided that a copy of this Notice shall be **posted** in the [JURISDICTION] Circuit Courthouse for a period of **15 days from the date of entry** of this Notice.

CLERK

Appendix C6

Proposed Decree for Change of Name

IN THE MATTER OF

*

IN THE

[LEGAL NAME OF CLIENT]

*

CIRCUIT COURT

FOR CHANGE OF NAME TO

*

FOR [JURISDICTION]

[NAME-TO-BE]

*

Case No.: _____

* * * * *

DECREE FOR CHANGE OF NAME

Upon consideration of the verified Petition to Change of Name and exhibits, it is, this
____ day of _____, 20__ by the Circuit Court for [JURISDICTION],

ORDERED that the Petitioner's name be, and hereby is, changed from [CURRENT
LEGAL NAME] to [NAME-TO-BE].

JUDGE

Circuit Court for [JURISDICTION]

Appendix C7

CC-DC-088

Statement in Support of Waiver of Prepaid Costs

☐

CIRCUIT COURT

☐

DISTRICT COURT OF MARYLAND FOR

City/County

Located at

Court Address

Case No.

IN THE MATTER OF:

Petitioner/Plaintiff

VS.

Respondent/Defendant

**STATEMENT IN SUPPORT OF WAIVER OF PREPAID COSTS BY CLERK
(Md. Rule 1-325)**

Please be advised that I, _____, am representing the

Name of Attorney

following person, _____ in this matter on behalf of:

Name of Party

☐ Maryland Legal Aid☐ the Office of the Public Defender☐ the following Maryland legal services provider: _____

Name of Organization/Program

That organization receives funding from or has otherwise been approved by the Maryland Legal Services Corporation to provide civil legal services on behalf of low-income persons. My client meets the financial eligibility criteria of the Corporation, and payment of filing fees or other court costs related to this matter is not required under the Prisoner Litigation Act, Maryland Code, Courts Article, §5-1002.

Therefore, in accordance with Maryland Rule 1-325(d), my client is entitled to an automatic waiver of prepaid costs.

I certify that to the best of my knowledge, information, and belief, there is a good ground for this claim, application, or request for process, and it is not interposed for any improper purpose or delay; or

☐ I am representing this client on behalf of the Office of the Public Defender which is required by statute to provide representation in this matter.

On behalf of: _____

Name of Party

Attorney Signature

Attorney Name

Address

City, State, Zip

Telephone / Fax

E-mail

Date

Appendix C8

Post-Judgment Motion to Seal

IN THE MATTER OF

[FORMER LEGAL NAME]

FOR CHANGE OF NAME TO

[CURRENT LEGAL NAME]

*

*

*

*

*

IN THE

CIRCUIT COURT

FOR [_____]

Case No.: _____

*

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LINE

TO THE CLERK OF THE COURT:

PLEASE TAKE NOTE that pursuant to Maryland Rule 16-913(a)(1), this filing contains Petitioner's Motion to Seal or Otherwise Limit Inspection of Case Record under Maryland Rule 16-912(a)(1)(A).

Upon the filing of this Motion, pursuant to Maryland Rule 16-912(b), the Clerk of this Court "shall deny inspection of the case record for a period not to exceed five business days, including the day the motion is filed, in order to allow the court an opportunity to determine whether a temporary order should issue."

Date: [_____, 20__]

Respectfully submitted,

[_____, Esq.

CPF# [_____]

FreeState Justice, Inc.

2526 St. Paul Street

Baltimore, Maryland 21218

t: 410-625-5428/ f: 410-625-7423

e: [_____]@freestate-justice.org

Attorney for Petitioner

CERTIFICATE OF SERVICE

I hereby certify that Petitioner is the only party to this action, and therefore that no other party has been served with the foregoing Line.

[_____] , Esq.

IN THE MATTER OF

[FORMER LEGAL NAME]

FOR CHANGE OF NAME TO

[CURRENT LEGAL NAME]

*

IN THE

*

CIRCUIT COURT

*

FOR [_____]

*

Case No.: _____

*

* * * * *

MOTION TO SEAL OR OTHERWISE LIMIT INSPECTION OF CASE RECORD

NOW COMES Petitioner, **[CURRENT LEGAL NAME]**, by and through **[her/his/their]** attorney, **[ATTORNEY]**, Esq., and pursuant to Maryland Rule 16-912(a)(1)(A), respectfully requests this Court to finally seal, in its entirety, or limit inspection of all records in the above-captioned matter, including search results on Maryland Judiciary Case Search.

In support of this Motion, Petitioner submits as follows:

1. Petitioner remains the sole party to this case and is the subject of the name change record at issue.
2. Upon review of Petitioner's application for change of name, the Court ordered **[her/his/their]** name to be changed to **[CURRENT LEGAL NAME]** on **[DATE]**, the evidence of which has remained a public record since that date.
3. Petitioner's name change record is currently available to the general public in hard copy at the Court, and it is also available on the Maryland Judiciary's Case Search website by searching Petitioner's current or former names. Petitioner's public name change record includes **[her/his/their]** birth name, **[FORMER LEGAL NAME]**, as well as **[her/his/their]** legal name, **[CURRENT LEGAL NAME]**.

4. Petitioner now seeks a court order to seal or otherwise limit inspection of **[her/his/their]** case record. Petitioner respectfully submits that a “special and compelling reason exists to preclude or limit inspection” of the case record, pursuant to Maryland Rule 16-912(d)(5)(A), as discussed below.
5. Petitioner is transgender and seeks to seal or otherwise limit inspection of **[her/his/their]** case record to protect **[her/him/them]** from discrimination, harassment, and violence based on their identity as a transgender person.
6. As a transgender person, petitioner’s gender identity is part and parcel of **[her/his/their]** name change case, and **[her/his/their]** transgender status would be apparent or reasonably ascertainable to anyone reviewing the publicly available case information via Maryland Judiciary Case Search. This information is readily available to anyone with access to the internet, such as an employer or co-worker. The availability of this information exposes Petitioner to the threat of discrimination, harassment, and violence.
7. As a transgender person, Petitioner is at significantly increased risk of discrimination in employment and housing, and even physical violence if **[her/his/their]** transgender status is a subject of public disclosure. According to the 2015 U.S. Transgender Survey, the largest and most comprehensive survey of the United States transgender community to date, over one-half (53%) of respondents who held a job in the past year had to hide their transgender status at work to avoid discrimination in the past year, and 30% reported being fired, harassed, or experiencing other mistreatment at work in the past year due to their transgender status.¹ Twenty-three percent (23%) of all respondents reported that they had experienced

¹ James, S. E., *et al.*, THE REPORT OF THE 2015 U.S. TRANSGENDER SURVEY at 154-55 (National Center for Transgender Equality 2016), *available at* <https://transequality.org/sites/>

housing discrimination, homelessness, or other forms of housing instability in the past year because they were transgender.² Large percentages of transgender people report being subjected to harassment and even physical assault when their transgender status is made known at work, in educational settings, and in places of public accommodation.³

8. If Petitioner's name change case information remains available, [she/he/they] will be at increased risk for discrimination in employment. Employers may use the Maryland Judiciary Case Search platform to conduct searches of prospective employees, since it offers a no-cost option for obtaining information that may be relevant to a background check. In Maryland, 25% of transgender respondents who held or applied for a job reported being fired, denied a promotion, or not being hired based on their gender identity or expression within the past year.⁴ Additionally, 18% of transgender Marylanders who had a job in the past year were verbally harassed at work, and they also reported being physically attacked (1%) and sexually assaulted (3%) because of their gender identity or expression.⁵ The

default/files/docs/usts/USTS-Full-Report-Dec17.pdf.

² *Id.* at 180.

³ *Id.* at 153 (15% of respondents who held a job in past year reported being verbally harassed, physically attacked, and/or sexually assaulted at work in the past year because of their transgender status); 136 (24% of respondents who attended college or vocational school reported being verbally, physically, or sexually harassed at school because of their transgender status when their gender identity was known to classmates, professors, or staff); 213 (31% of respondents who visited a place of public accommodation in the past year where staff or employees thought or knew they were transgender experienced at least one type of negative experience due to their gender identity, including being denied equal treatment or service (14%), verbally harassed (24%), and/or physically attacked (2%)); 89-90 (as a result of showing identification with a name or gender that did not match their gender presentation, 32% reported a negative experience, including verbal harassment (25%), denial of service (16%), and assault (2%)).

⁴ James S. E., *et al.*, THE 2015 U.S. TRANSGENDER SURVEY, *Maryland State Report* 1, 1 (Nat'l Ctr. For Transgender Equal. 2017) *available at* <https://transequality.org/sites/default/files/USTS%20MD%20State%20Report.pdf>.

⁵ *Id.*

availability of Petitioner's name change information exposes [her/him/them] to discrimination in hiring or during [her/his/their] employment. Further, Petitioner is at risk of co-workers learning about [her/his/their] transgender status as a result of a simple internet search, which may subject [her/him/them] to harassment at work.

9. In recognition of the unfortunate reality of bias and discrimination against transgender people in the workplace, Maryland has made employment discrimination on the basis of gender identity unlawful, *see* Md. Code, State Gov't Art., § 20-606, and has made gender identity a protected classification under the State Hate Crimes Law, *see* Md. Code, Crim. Law Art., § 10-304 (prohibiting commission of crime against a person because of the person's "sexual orientation"); *see also id.* § 10-301(c) (including "gender-related identity" within the statutory definition of "sexual orientation"). Despite the existence of these laws, however, transgender Marylanders remain subject to invidious discrimination.

10. Further, people known or suspected to be transgender are more often the targets of hate crimes than cisgender individuals, including online violence. Transgender individuals are 2.8 times more likely to be the targets of violence online or over the phone than cisgender members of the LGBTQ community.⁶

11. **[Include additional information specific to the petitioner here, if applicable (e.g., particular concerns about/negative experiences with employment, education, and other discrimination, IPV, family harassment and violence, etc)]**

⁶ Emily Waters, *et al.*, LESBIAN, GAY, BISEXUAL, TRANSGENDER, QUEER, AND HIV-AFFECTED HATE VIOLENCE IN 2016 12 (National Coalition of Anti-Violence Programs 2017) *available at* http://avp.org/wp-content/uploads/2017/06/NCAVP_2016HateViolence_REPORT.pdf.

12. If the record in this case remains unsealed and publicly available via Maryland Judiciary Case Search, a permanent, easily accessible official record of Petitioner's transgender status will continue to be readily available to anyone with access to the internet. The availability of this information exposes Petitioner to the threat of discrimination, harassment, and violence.

13. There is no other party to this matter, therefore an adversary hearing as it pertains to Petitioner's Motion to Seal is unnecessary. Furthermore, Petitioner waives [her/his/their] opportunity for a full adversary hearing regarding this Motion to Seal, as permitted by Maryland Rule 16-912(d)(6) (providing that a final order on sealing shall be entered "within 30 days after a hearing was held *or waived*") (emphasis added).

14. If the Court does not deem that a sufficient showing has been made to seal this matter in its entirety, Petitioner respectfully requests that the Court enter an order directing that the case be shielded from public electronic access only (i.e. via Maryland Judiciary Case Search). In the proposed order that accompanies this Motion, an optional paragraph has been included to effectuate this alternative ruling if the Court views it as appropriate.

WHEREFORE, Petitioner respectfully requests this Honorable Court to:

(a) Grant Petitioner's Motion to Seal or Otherwise Limit Inspection of Case Record; and

(b) Order the Clerk of this Court to shield from public inspection all records in the above-captioned matter, including search results on the Maryland Judiciary Case Search; and

- (c) Authorize Petitioner and undersigned counsel to access the case file at any time after this Court orders it sealed; and
- (d) Grant such other and further relief as deemed appropriate by this Court.

Date: [_____, 20__]

Respectfully submitted,

[_____] Esq.
CPF# [_____]
FreeState Justice, Inc.
2526 St. Paul Street
Baltimore, Maryland 21218
t: 410-625-5428/ f: 410-625-7423
e: [_____]@freestate-justice.org
Attorney for Petitioner

CERTIFICATE OF SERVICE

I hereby certify that Petitioner is the only party to this action, and therefore that no other party has been served with the foregoing motion.

[____], Esq.

IN THE MATTER OF

[FORMER LEGAL NAME]

FOR CHANGE OF NAME TO

[CURRENT LEGAL NAME]

*

IN THE

*

CIRCUIT COURT

*

FOR [_____]

*

Case No.: _____

*

* * * * *

FINAL ORDER SEALING CASE RECORD

Upon consideration of Petitioner’s Motion to Seal or Otherwise Limit Inspection of Case Record (“Motion”), pursuant to Maryland Rule 16-912(d), it is, this _____ day of _____, 20____, by the Circuit Court for **[County/Baltimore City]**, Maryland,

FOUND that:

1. Petitioner has been given the “opportunity for a full adversary hearing” under Maryland Rule 16-912(d)(1), and a hearing has been waived by Petitioner pursuant to Maryland Rule 16-912(d)(6); Petitioner is the only party to this action and thus there is no “adversary” in this case.
2. This Order is based on the argument outlined in Petitioner’s Motion.
3. Pursuant to Maryland Rule 16-912(d)(5)(A), there is a special and compelling reason that the case record in this matter should properly be subject to a final order precluding or limiting inspection, in that:
 - a. Based on survey data and argument presented by Petitioner, if Petitioner’s identity were disclosed to the general public in the context of the subject matter of this case, Petitioner would be at a heightened risk of discrimination, harassment, and violence.

4. An order finally sealing from public inspection all records in this case that contain Petitioner's name or address is "as narrow as practicable in scope and duration to effectuate the interest sought to be protected by the order," pursuant to Maryland Rule 16-912(d)(3).

ACCORDINGLY, it is therefore ORDERED:

- (1) Petitioner's Motion to Seal or Otherwise Limit Inspection of Case Record is GRANTED;
- (2) The Clerk of this Court shall immediately SHIELD from public inspection all records in the above-captioned matter, including search results on the Maryland Judiciary Case Search website; and
- (3) Petitioner and undersigned counsel are hereby authorized to access the case file at any time.

JUDGE
Circuit Court for [**County/Baltimore**
City]

Appendix D1

DR 60

Petition for Change of Name (Adult)

IN THE MATTER OF:

Your Current Name

Street Address

City, State, Zip

Telephone

FOR CHANGE OF NAME TO:

New Name

*

*

*

*

*

*

IN THE

CIRCUIT COURT

FOR

Civil No.: _____

* * * * *

PETITION FOR CHANGE OF NAME

(Adult)

(DOM REL 60)

TO THE HONORABLE, THE JUDGE OF SAID COURT:

Petitioner, _____, respectfully represents
to this Court: Your Current Name

1. That I was born on _____, in _____,
Your Birthdate Your Birthplace - City, State, County
and presently reside at _____
Present Address

2. That I was born _____ (See copy of
Your Birth Name attached birth certificate.)

- ☐ My name has been changed to the following since birth for the following reasons:
(List any reasons why your name may have changed since birth, for example, marriage).

Name Changed To:

Reason:

_____	_____
_____	_____
_____	_____
_____	_____

- ☐ I have attached any documents that changed my name officially.

3. Select one of the following:

☐ I have never registered as a sexual offender; OR

☐ I am or have previously been registered as a sexual offender under the following name:

Full Name as Registered

4. I am requesting this change of name because:_____

5. ~~I wish to change my name to:~~_____

New Name

6. I hereby certify that the above change of name is not requested for any illegal or fraudulent purposes.

WHEREFORE, I respectfully request that the Court pass an Order changing my name from _____ to _____

Current Name

New Name

I, _____, solemnly affirm under the penalties of perjury, that the contents of the foregoing paper are true to the best of my knowledge, information and belief.

Date

Your Signature

Your Name - Printed

Address

City, State, Zip

Telephone

Appendix D2
DRIN 60
Instructions for Change of
Name of an Adult

INSTRUCTIONS FOR CHANGE OF NAME OF AN ADULT

Instructions for Completing Dom Rel 60

Introduction:

You must be an adult to use this form (age 18 or older). Do **not** use this form if you are filing to have a child's name changed. Use DOM REL 62 instead.

You must be a resident of the County in which you are filing for a name change.

You may not use these forms to change a name in connection with an adoption or a divorce.

For more information, read Maryland Rule 15-901.

General:

To change your name you must file a Petition for Change of Name. A notice of the request must be published in a newspaper of general circulation in the county in which you reside unless the Court grants a waiver of publication. You will need to check with the Clerk of Court regarding publication of the Notice. In some jurisdictions publication arrangements are the responsibility of the party asking for publication. In other jurisdictions the Clerk of Court will arrange to have the Notice published. After the notice has been published, other persons are given the opportunity to object. If someone objects, that person must file an objection and send a copy of the objection to you. You will have 15 days to respond to the objection by filing a written response with the Court. If you want the court to hold a hearing on the objection, include a Request for Hearing or Proceeding, DOM REL 59, with your response.

Instructions:

>STEP 1- Completion of the Petition for Change of Name (Adult), Notice for Publication

- A. Fill out the Petition for Change of Name, as indicated.
- B. Sign the Petition.
- C. Fill out the top section and first paragraph of the Notice for Publication. Leave the second paragraph blank.

>STEP 2 - Attachment of Birth Certificate

Attach to the documents to be filed with the court, a copy of your birth certificate or other document reflecting your *current name* (the one you want to change *from*).

>STEP 3 - Filing of Documents

- A. File the above documents with the Clerk of the court at the circuit court for the county in which you reside.
- B. Pay the filing fee.
- C. Arrange for publication of Notice. **Note:** You will need to check with the Clerk of Court regarding publication of the Notice. In some jurisdictions publication arrangements are the responsibility of the party asking for publication. In other jurisdictions the Clerk of Court will arrange to have the Notice published.

>STEP 4 - Pay for the Publication of the Notice

The newspaper will send you an invoice to have the Notice published. You are required to pay this invoice. Publication can be expensive. After the Notice has been published you and the Clerk will be sent a confirmation from the newspaper. In some jurisdictions, the notice is only sent to you, not the Clerk. You will need to check with the Clerk of the Court in your jurisdiction to determine if you need to send the Clerk a copy yourself.

>STEP 5 - Consideration of Petition and Issuance of Order

After the Clerk receives the confirmation from the newspaper, they will send your Petition to a judge. The judge will review all of the information.

If someone has contested the name change or if the judge has any questions about your petition, then a hearing may be scheduled. (Remember to respond to any objection within 15 days after you receive it and include a Request for Hearing or Proceeding, DOM REL 59, if you want the court to hold a hearing on the objection).

If no one has contested the change, and everything has been done properly, then the judge may sign an Order for Name Change. You will receive a certified copy of the Order in the mail, and, for a small fee, you may obtain additional certified copies of the Order from the Clerk. You will need to use a certified copy of the Order for Name Change to change your name at the Motor Vehicle Administration (you may need other identification for this), the Bureau of Vital Statistics, Social Security Administration, creditors, etc.

Appendix D3
DR61
Notice of Publication (Adult)

IN THE MATTER OF:

(your current name)

FOR CHANGE OF NAME TO:

(new name)

* IN THE
* CIRCUIT COURT
* FOR
* _____
* Civil No.: _____

* * * * *

NOTICE
(Adult)
(DOM REL 61)

The above Petitioner has filed a Petition for Change of Name in which he/she seeks to change his/her name from _____ to _____
(your current legal name)
_____. The petitioner is seeking a name change
(name you want)
because:

Any person may file an objection to the Petition on or before the _____ day of _____, _____. The objection must be supported by an affidavit and served upon the Petitioner in accordance with Maryland Rule 1-321. Failure to file an objection or affidavit within the time allowed may result in a judgment by default or the granting of the relief sought.

A copy of this notice shall be published one time in a newspaper of general circulation in the county/city at least fifteen (15) days before the deadline to file an objection.

CLERK

Appendix D4

DR 62

Petition for Change of Name (Minor)

IN THE MATTER OF:

Child's Current Name

Street Address

City, State, Zip

Telephone

FOR CHANGE OF NAME TO:

Child's New Name

BY AND THROUGH HIS/HER
MOTHER/FATHER/GUARDIAN:

Petitioner's Name

* * * * *

IN THE
CIRCUIT COURT
FOR

Civil No.: _____

PETITION FOR CHANGE OF NAME
(Minor)
(DOM REL 62)

TO THE HONORABLE, THE JUDGE OF SAID COURT:

Petitioner, _____, a minor, by and through

his/her ☐ Mother ☐ Father ☐ Guardian respectfully represents to this Court:
Child's Current Name
Check One

1. That the minor child was born on _____ in _____
Child's Birthdate Child's Birthplace - City, State, Country
and presently resides at _____
Child's Present Address

2. That the child's birth name is _____
Child's Birth Name

☐ The child's name has been changed to the following since birth for the following reasons:
(List any reasons why the child's name may have changed since birth, for example, adoption).

Name Changed To:

Reason:

_____	_____
_____	_____
_____	_____
_____	_____

☐ I have attached a birth certificate or other document reflecting the child's current name.

3. Select one of the following:

☐ The child has never registered as a sexual offender; OR

☐ The child is or has previously been registered as a sexual offender under the following name: _____

Full Name as Registered

4. Petitioner wishes to change the child's name to: _____

Child's New Name

5. This change of name is being requested because: _____

6. The name and address of each parent, guardian and custodian of the child is:

7. The other parent, guardian or custodian:

☐ Consents to and joins this petition.

☐ Has not consented at this time.

☐ Cannot be found, and I have attached an Affidavit and Motion to Serve by Alternative Means.

8. Petitioner hereby certifies that the above change of name is not requested for any illegal or fraudulent purposes.

WHEREFORE, I respectfully request that the Court pass an Order changing the minor child's name from _____ to _____

Current Name

New Name

I, _____, solemnly affirm under the penalties of perjury, that the contents of the foregoing paper are true to the best of my knowledge, information and belief.

Date

Your Signature - MOTHER/FATHER/GUARDIAN

Your Name - Printed

Address

City, State, Zip

Telephone

Appendix D5

DRIN 62

Instructions for Change of Name of a Minor

INSTRUCTIONS FOR CHANGE OF NAME OF A MINOR

Instructions for Completing DOM REL 62

Introduction:

The minor must be a resident of the County in which you are filing for a name change. You may not use these forms to change a name in connection with an adoption. For more information, read Maryland Rule 15-901.

NOTE: Changing the name of a child will not change an existing child support obligation.

General:

In order to complete your petition, you must provide the Court with both names of the biological parents of the child.

Child Less Than 1 Year Old: If the child is less than one-year old, you may be able to change the child's name without a court order. Read MD. HEALTH GEN. CODE ANN. § 4-214.

Child Aged 1 Year or Older: To change a child's name you, as his/her parent or guardian, may file a Petition for Change of Name. Ordinarily the court will look at whether all parents, guardians and custodians, as well as the child, are in agreement with the name change. The request to have the name changed must also be published in a newspaper of general circulation in the county in which you are filing the Petition. You will need to check with the Clerk of Court regarding publication of the Notice. In some jurisdictions publication arrangements are the responsibility of the party asking for publication. In other jurisdictions the Clerk of Court will arrange to have the Notice published. After the notice has been published, other persons are given the opportunity to object. If someone objects, they must file this objection and serve you a copy. You will have 15 days to respond to the objection by filing a written response with the Court.

Instructions:

> STEP 1 — Securing Consent of Parents, Guardians or Custodians

It is usually preferable to submit the Petition with signed consents from all parents, guardians and custodians. Before preparing the Petition for Change of Name, contact each parent, guardian, or custodian. Ask that person to sign a Consent form. File this consent form with your petition. If one of the parents, guardians or custodians are deceased, please provide a copy of the Death Certificate.

> STEP 2 — Completion of the Petition for Change of Name (Minor), Notice and Order for Change of Name

- A. Fill out the Petition for Change of Name, as indicated.
- B. Sign the Petition.
- C. Fill out the top section and first paragraph of the Notice for Publication. Leave the second paragraph blank.
- D. Fill out the proposed Order for Change of Name, except for the date and Judge's signature.

>STEP 3 — Attachment of Consent Forms and Birth Certificate

Attach to the documents to be filed with the court, each signed consent, and a copy of the child's birth certificate or other document reflecting the child's *current name* (the one you want it changed *from*).

>STEP 4 — Filing of Documents

File the above documents with the Clerk of the court at the circuit court for the county in which you reside. Pay the filing fee. You will need to check with the Clerk of Court regarding publication of the Notice. In some jurisdictions publication arrangements are the responsibility of the party asking for publication. In other jurisdictions the Clerk of Court will arrange to have the Notice published.

> STEP 5 — Service

If you have not obtained the consent of each parent, guardian and custodian of the child, you will need to serve each person who has not consented with the following papers which you have filed or which have been provided by the Court. *See General Instructions.*

- 1. Petition for Change of Name
- 2. Notice
- 3. Order for Change of Name
- 4. All attachments you filed with these documents
- 5. Writ of Summons (This will be given to you after you file your documents)

>STEP 6 — Pay for the Publication of the Notice

The newspaper will send you an invoice to have the Notice published. You are required to pay this invoice. Publication can be expensive. After the Notice has been published, you and the Clerk will be sent a confirmation from the newspaper. In some jurisdictions, the notice is only sent to you, not the Clerk. You will need to check with the Clerk of the Court in your jurisdiction to determine if you need to send the Clerk a copy yourself.

>STEP 7 — Consideration of Petition and Issuance of Order

After the Clerk receives the confirmation from the newspaper, they will send your

Petition to a judge. The judge will review all of the information.

If someone has contested the name change, if you have not secured the consent of all parents, guardians or custodians, or if the judge has any questions about your petition, a hearing may be scheduled. (Remember to Respond to any objection within 15 days after you receive it and include a Request for Hearing or Proceeding, DOM REL 59, if you want the court to hold a hearing on the objection).

If no one has contested the change, and everything has been done properly, then the judge may sign the proposed Order for Name Change. You will receive a certified copy of the signed Order in the mail, and, for a small fee, you may obtain additional certified copies of the Order from the Clerk. You will need to use a certified copy of the Order for Name Change to change the child's name at the Motor Vehicle Administration (you may need other identification for this), the Bureau of Vital Statistics, the Social Security Administration, with creditors, or at the child's school.

Appendix D6

DR 63

Consent to Change Name (Consent of Parent, Guardian or Custodian)

IN THE MATTER OF:

(child's current name)

FOR CHANGE OF NAME TO:

(child's new name)

BY AND THROUGH HIS/HER
MOTHER/FATHER/GUARDIAN:

(petitioner's name)

* * * * *

* IN THE
* CIRCUIT COURT

* FOR

* Civil No.: _____

*

CONSENT TO CHANGE OF NAME
(Consent of Parent, Guardian or Custodian)
(DOM REL 63)

1. Name, Age and Competence.

My name is _____. My date of birth is _____
and I am capable of understanding what this consent means.

2. Status as Parent or Guardian.

I am ☐ the mother ☐ the father (or) ☐ the guardian of _____
_____, born on _____, _____.
(current name of child)
(date of birth)

3. Consent.

I hereby consent that the minor child's name be changed from _____
_____ to _____. I hereby join in the foregoing
Petition and waive notice of process. I acknowledge that I have the right to revoke my consent at
any time prior to the date an order changing the child's name is entered. I acknowledge that I
was provided the opportunity to consult with legal counsel, if I so chose, before signing this
Consent.

I SOLEMNLY AFFIRM under the penalties of perjury that the contents of the foregoing
Consent are true to the best of my knowledge, information, and belief.

(date)

(your signature)

(your name - PRINTED)

(street address)

(city , state , zip code)

(telephone number)

NOTE: Changing the name of a child will not change an existing child support obligation.

Appendix D7

DR 64

Consent to Change Name (Consent of Person Originally Listed on Birth Certificate)

IN THE MATTER OF:

(child's current name)

FOR CHANGE OF NAME TO:

(child's new name)

BY AND THROUGH HIS/HER
MOTHER/FATHER/GUARDIAN:

(petitioner's name)

* * * * *

*

IN THE

*

CIRCUIT COURT

*

FOR

*

*

*

Civil No.: _____

*

CONSENT TO CHANGE OF NAME
(Consent of Person Originally Listed on Birth Certificate)

(DOM REL 64)

1. Name, Age and Competence.

My name is _____. My date of birth is _____
and I am capable of understanding what this consent means.

2. Status.

I believe that I am NOT the father of _____ ,
(current name of child)
born on _____ , _____ , although I am listed as the father on his/her
(date of birth)
Certificate of Live Birth.

3. Consent.

I hereby consent to having the child's name changed. I hereby join in the foregoing
Petition and waive notice of process. I acknowledge that I have the right to revoke my consent at
any time prior to when an order changing the child's name is entered. I acknowledge that I was
provided the opportunity to consult with legal counsel, if I so chose, before signing this Consent.

I SOLEMNLY AFFIRM under the penalties of perjury that the contents of the foregoing
Consent are true to the best of my knowledge, information, and belief.

(date)

(your signature)

(your name - PRINTED)

(street address)

(city , state , zip code)

(telephone number)

NOTE: Changing a child's name will not change an existing child support obligation.

Appendix D8
DR 65
Notice of Publication (Minor)

IN THE MATTER OF:

(child's current name)

FOR CHANGE OF NAME TO:

(child's new name)

BY AND THROUGH HIS/HER
MOTHER/FATHER/GUARDIAN:

(petitioner's name)

* * * * *

*

IN THE

*

CIRCUIT COURT

*

FOR

*

*

*

Civil No.: _____

*

* * * * *

NOTICE

(Minor)

(DOM REL 65)

The above Petitioner has filed a Petition for Change of Name in which he/she seeks to change the name of a minor child from _____ to

(The child's current legal name)

_____. The petitioner is seeking this name change
(name you want for the minor child)
for the child for the following reasons:

Any person may file an objection to the Petition on or before the _____ day of _____, _____. The objection must be supported by an affidavit and served upon the Petitioner in accordance with Maryland Rule 1-321. Failure to file an objection or affidavit within the time allowed may result in a judgment by default or the granting of the relief sought.

A copy of this notice shall be published one time in a newspaper of general circulation in the county/city at least fifteen (15) days before the deadline to file an objection.

CLERK

Appendix D9
DR 70
Motion for Alternate Service

Circuit Court for _____ Case No. _____
City or County

Name _____		Name _____
Street Address _____	VS.	Street Address _____
City _____ State _____ Zip Code _____ () Apt. # _____		City _____ State _____ Zip Code _____ () Apt. # _____
Area Code _____ Telephone _____		Area Code _____ Telephone _____
Plaintiff		Defendant

MOTION FOR ALTERNATE SERVICE
(DOM REL 70)

I, _____, representing myself state that:
My name

1. I filed the following document(s): _____
Name of Document(s)
with the Circuit Court for _____ on _____, _____
County or City Date document(s) filed
2. Since that time I have made reasonable efforts to locate the Defendant to effect service of process, but have been unable to do so as more fully set forth in the Affidavit below.

FOR THESE REASONS, I request that the Court order service by posting, or in the alternative by publication, or any other means of notice that the court may deem appropriate, pursuant to Maryland Rule 2-121 or 2-122.

_____	_____
Date	Signature

AFFIDAVIT IN COMPLIANCE WITH
MARYLAND RULE 2-121 OR 2-122

STATE OF MARYLAND, COUNTY OF _____ :

I HEREBY CERTIFY that before me, the subscriber, a Notary Public in and for the State and County aforesaid, personally appeared _____, Plaintiff,
My Name
in the above-entitled case, and made oath, in due form of law as follows:

1. I filed the following document(s): _____
Name of Document(s)
with the Circuit Court for _____ on _____, _____
County or City Date document(s) filed

2. Since that time I have attempted to serve the opposing party with that document and any related court summons in the following manner (*Check all that apply and attach appropriate documents.*):

☐ I have attempted to serve the opposing party at _____
Address
but the opposing party has avoided service by _____.

☐ I have tried to serve the opposing party by **certified mail** at their last known address _____ times, as shown by the attached Affidavit(s) of Service.

☐ I have tried to get the opposing party's current address by **sending letter(s) to the following relative(s) or friend(s)**, as indicated by the attached copies of letters, mail return receipts, Affidavit(s) of Service and responses, if received:

_____ Name of Person to Whom Letter Was Sent	_____ Date Sent	_____ Indicate whether you received a reply.
_____ Name of Person to Whom Letter Was Sent	_____ Date Sent	_____ Indicate whether you received a reply.
_____ Name of Person to Whom Letter Was Sent	_____ Date Sent	_____ Indicate whether you received a reply.

☐ I have tried to get the opposing party's current address by sending a letter to his/her last known employer, _____, as shown by the attached copy of my letter, mail return receipts, Affidavit(s) of Service and response, if received:

_____ Name of Employer	_____ Date Sent	_____ Indicate whether you received a reply.
---------------------------	--------------------	---

☐ I have hired a private investigator or attorney who was unable to locate the opposing party as shown on the attached affidavit.

☐ I looked in the telephone directory and/or called directory assistance in the following areas: _____.

☐ I have contacted the Motor Vehicle Administration of Maryland and have learned the following: _____.

☐ I have contacted the Military Worldwide Locator for Defendant's branch of the armed services and have learned the following: _____.

☐ I asked the following former neighbors of the opposing party at his/her last known address, as indicated on the attached affidavits signed by those neighbors:

_____ Name of Neighbor	_____ Their Address	_____ Date You Spoke With Them
_____ Name of Neighbor	_____ Their Address	_____ Date You Spoke With Them
_____ Name of Neighbor	_____ Their Address	_____ Date You Spoke With Them

☐ I tried to get the opposing party's current address by contacting the local child support enforcement agency. They reported that they have been unable to locate the opposing party.

☐ I have tried the following additional means to obtain the opposing party's current address:

3. I have not seen the opposing party since _____, _____ and (*Check all that apply below and attach Financial Statement if required*):

- ☐ I do not know his/her current address.
- ☐ I do not know where he/she is working.
- ☐ I have no current address for any close relatives.
- ☐ I have no money to hire a private investigator or attorney to find him/her, as indicated in the attached Financial Statement.
- ☐ I have no money to do service by publication, as indicated in the attached Financial Statement.

I have made reasonable efforts to locate the Defendant, but have been unable to do so. I am over eighteen years old and am competent to testify.

Signature

SUBSCRIBED AND SWORN to before me, this _____ day of _____,

_____.

Notary Public

MY COMMISSION EXPIRES: _____

Appendix D10

CC-DC-053

Motion to Seal or Otherwise Limit Inspection of a Case Record



STATE OF MARYLAND
OR

☐ CIRCUIT COURT ☐ DISTRICT COURT OF MARYLAND FOR _____
City/County

JUDICIARY Located at _____ Case No. _____
Court Address

Plaintiff VS. _____
Defendant

**MOTION TO SEAL OR OTHERWISE LIMIT INSPECTION OF A CASE RECORD
(Md. Rule 16-912(a)(1)(A))**

I hereby move, under Md. Rule 16-912(a)(1)(A), and on the grounds and authorities stated below, to seal or otherwise limit inspection of the following records, or parts of records, that are not otherwise shielded from inspection under the Rules or other applicable law.

My name is _____, and I am ☐ a party to this action. ☐ a person permitted to intervene as a party. ☐ a person subject of or specifically identified in the case.

The specific records or parts of records that should not be subject to public inspection are:

The specific facts why these records or parts of records should be prevented or limited from public inspection are: _____

I ☐ do ☐ do not believe that immediate, substantial and irreparable harm will result to me or the person I am seeking relief on behalf of if these records, or parts of records, are not immediately sealed, or immediately made unavailable for public inspection, before a full adversary hearing can be held. If I believe such harm will result, the specific reasons for my belief are: _____

AFFIDAVIT

I solemnly affirm under the penalties of perjury that the contents of the foregoing paper are true to the best of my knowledge, information, and belief.

_____ Date	_____ Signature
_____ Printed Name	_____ Telephone Number
_____ Address	_____ Fax
_____ City, State, Zip	_____ E-mail

Please attach any additional pages that you need. (Note: You must be specific in your identification of information to be sealed, including identifying specifically which documents or portions thereof you believe should be sealed. You also must be specific in stating your reasons why you believe the case record, part of a case record, or information contained in a case record is confidential and not subject to inspection.)

CERTIFICATE OF SERVICE

I certify that I served a copy of this Motion upon all parties to the action and each identifiable person who is the subject of the case record by ☐ mailing first class mail, postage prepaid ☐ hand delivery, on

_____ to:
Date

_____ Name	_____ Address
_____ Name	_____ Address
_____ Date	_____ Signature of Party Serving

Appendix E1

**FreeState Justice, “X’ Markers Coming
to Maryland Licenses, But Real ID
Switchover Could Cause Headaches**



NEWS & EVENTS
Save the Date! Jazz Brunch 2020
 December 17, 2019

HOME

CAREERS

WHO WE ARE

WHAT WE DO

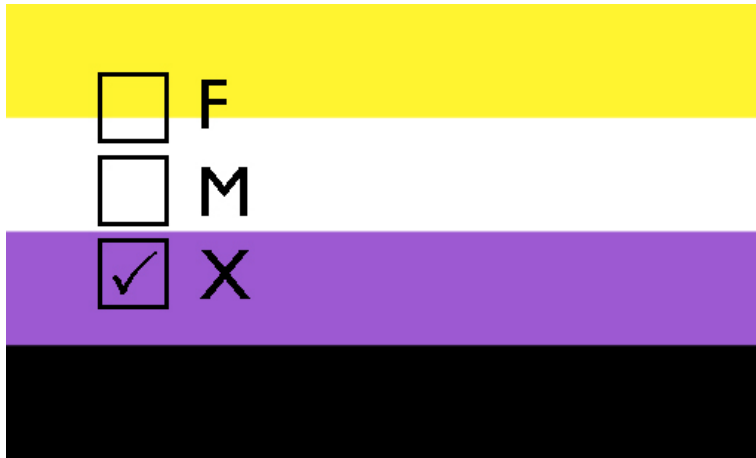
GET INVOLVED

RESOURCES

NEWS & EVENTS

"X" MARKERS COMING TO MARYLAND LICENSES, BUT REAL ID SWITCHOVER COULD CAUSE HEADACHES

Marylanders will also be able to change their gender marker without a court order or letter from their medical provider.



As of October 1, 2019, Marylanders will be able to choose the gender on their driver's licenses and state-issued ID cards without providing a court order or other documentation, and, in a first for the state, they'll have a third gender option designated with an X. But, the state's switchover to Real ID-compliant licenses could create headaches for Marylanders wanting to change their gender marker.

The new law, passed by the Maryland General Assembly in March, requires the state's Motor Vehicle Administration (MVA) to issue licenses or state IDs with a third gender marker other than Female or Male. The MVA's use of an "X" marker for the third gender option follows the practice in other states and a number of foreign countries.

The law also allows Marylanders to change the gender marker on their license or state ID without providing proof of gender, greatly streamlining what had been a cumbersome – and often expensive – process. Previously, changing the gender on one's license or state ID required getting a court order or having paperwork signed by multiple medical providers, neither of which will be required beginning October 1, 2019.

To change the gender on your license or state ID, simply visit [any full service MVA branch](#). When you get there, tell the check-in agent that you need to get a corrected license. When your number is called up to speak to an agent, explain that you want to update the gender marker on your ID and they'll walk you through the process, which doesn't require you to fill out any forms.

Instead, when it comes time to select your new gender marker, your three options will pop up on a touchscreen. Simply pick the gender marker of your choice. It's as easy as that, though you will also need to pay a \$20 fee for your new license, which will be mailed to your home address within the next couple of weeks.

Because of the state's implementation of the federal Real ID law requirements, however, Marylanders wishing to change the gender marker on their licenses or state IDs may be required to present documentation in order to obtain a Real ID-compliant license. This typically means documents to prove your age, identity, and where you live, as well as your social security card. Individuals who have previously changed their name may also be required to bring copies of their court orders, marriage certificates, or other documents.

If you don't already have a Real ID-compliant driver's license, you will only be able to change your gender marker if you switch to a Real ID license/ID at the same time. To find out if your Maryland driver's license or state ID is already Real ID-compliant, or to find out what documents you'll need to bring with you, use the [MVA's Real ID Lookup Tool](#).



TAGS

[DRIVERS LICENSE](#)[LEGISLATION](#)[NON-BINARY](#)[OUTREACH](#)[TRANSGENDER](#)SHARE THIS ARTICLE



ABOUT US

FreeState Justice is Maryland's statewide advocacy non-profit that seeks to improve the lives of lesbian, gay, bisexual, transgender, and queer ("LGBTQ") Marylanders.

FreeState Justice is a 501(c)3 organization. Contributions to the organization are tax deductible to the fullest extent of the law.

FreeState Justice is a grantee of the Maryland Legal Services Corporation and a member of the Equality Federation.

AFFILIATIONS



CONTACT US

Phone: 410-625-LGBT (5428)

Fax: (410) 625-7423

Office:
FreeState Justice
2526 St. Paul St.
Baltimore, MD 21218
[Click Here for Directions](#)

INTAKE HOURS

Tuesdays 2-5 PM

Appendix E2


**Application for Change in Sex
Designation on a Certificate of Live
Birth**



FACT SHEET
APPLYING FOR A NEW CERTIFICATE OF BIRTH FOLLOWING SEX CHANGE
OR DIAGNOSIS OF AN INTERSEX CONDITION

Maryland Department of Health and Mental Hygiene
Division of Vital Records

Background	An individual born in Maryland whose sex has been changed or who has been diagnosed with an intersex condition may apply for a Certificate of Live Birth that reflects a change in sex designation. If a name change is also being requested, a court order must be presented.
Requirements for new Certificate reflecting change to sex designation	<p>An individual who was born in Maryland must provide satisfactory proof that:</p> <ol style="list-style-type: none"> 1. A licensed health care practitioner who has treated or evaluated the individual has signed a statement, under penalty of perjury, that the individual has undergone surgical, hormonal, or other treatment appropriate for the individual, based on generally accepted medical standards; OR 2. A licensed health care practitioner who has treated or evaluated the individual has signed a statement, under penalty of perjury, that the individual has an intersex condition and, in the professional opinion of the licensed health care practitioner, based on generally accepted medical standards, the individual's sex designation should be changed accordingly; OR 3. A court of competent jurisdiction has issued an order indicating that the sex of an individual should be changed; OR 4. Prior to October 1, 2015, the Secretary of the Department of Health and Mental Hygiene amended an original Certificate of Live Birth on receipt of a court order indicating the sex of the individual has been changed.
Licensed health care practitioner	<p>A licensed health care practitioner is an individual who is:</p> <ul style="list-style-type: none"> • A physician licensed under Title 12 of the Health Occupations Article; • A psychologist licensed under Title 18 of the Health Occupations Article; • A registered nurse licensed and certified to practice as a nurse practitioner, nurse psychotherapist, or clinical nurse specialist under Title 8 of the Health Occupations Article; • A licensed certified social worker-clinical who is licensed under Title 19 of the Health Occupations Article; or • An individual who is licensed to practice a profession listed above in another state and meets the requirements under the Health Occupations Article to Qualify for a license to practice the profession in this state.
Requirements for name change	A change to the name requires the original court order unless the individual is under 12 months of age. The name of an individual under the age of 12 months may be changed once without a court order by providing the required documentation.
To request change(s)	Submit application, required evidence, and fees to the Division of Vital Records, 6764-B Reisterstown Road, Baltimore, Maryland 21215.
Fees	<p>Preparation of new Certificate of Live Birth \$10</p> <p>Purchase of new Certificate (if requested) \$10 per copy</p> <p>Check or money order should be made payable to the "State of Maryland"</p>
For more information	Contact the Division at Vital Records at 410-764-3036 or scook@maryland.gov.

	<p align="center">APPLICATION FOR CHANGE IN SEX DESIGNATION ON A CERTIFICATE OF LIVE BIRTH</p> <p align="center">Maryland Department of Health and Mental Hygiene Division of Vital Records</p>	
Applicant's contact information	Current name: <i>First</i> <i>Middle</i> <i>Last</i>	
	Address:	
	Telephone:	Email:
Information on existing birth certificate	Name at birth: <i>First</i> <i>Middle</i> <i>Last</i>	
	Date of birth:	City/county of birth:
	Name of Mother:	Name of Father:
	<p>I am requesting a new Certificate of Live Birth to reflect a change in the sex designation that appears on the existing Certificate. I am submitting:</p> <ul style="list-style-type: none"> • A signed statement from a licensed health care practitioner OR a court order indicating that the sex designation on my Certificate of Live Birth should be changed; • My government-issued photo identification; and • A check or money order in the amount of \$10 for processing the change to the Certificate. <p>Although not required, I am requesting that the Division of Vital Records:</p> <p><input type="checkbox"/> Amend the name on the Certificate (a court order must be provided if the individual is over 12 months of age)</p> <p><input type="checkbox"/> Issue a certified copy (or copies) of the new Certificate of Birth (enclose Application for Certified Copy of a Maryland Birth Record and required fees).</p> <p>X _____</p> <p align="center">Signature of Applicant Date</p>	
FEES ENCLOSED	<p>Check of money order should be made payable to the State of Maryland</p> <p>Preparation of new Certificate @\$10 per certificate</p> <p>Certified copy (or copies) of Certificate of Live Birth @ \$10/copy</p> <p>TOTAL</p>	<p>\$ _____</p> <p>\$ _____</p> <p>\$ _____</p>



**CHANGE IN SEX DESIGNATION ON A CERTIFICATE OF LIVE BIRTH
STATEMENT OF LICENSED HEALTH CARE PRACTITIONER**

Maryland Department of Health and Mental Hygiene
Division of Vital Records

Purpose of the form

An individual born in Maryland whose sex has been changed, or who has been diagnosed with an intersex condition, may apply for a Certificate of Live Birth that reflects a change in sex designation. The individual must provide satisfactory proof from a licensed health care practitioner that the individual has undergone surgical, hormonal, or other treatment appropriate for the individual, based on generally accepted medical standards; or that the individual has an intersex condition. This form is intended to assist licensed health care practitioners in providing the information required on the statement that is needed to accompany an individual's application.

Patient/client information

Name:

Date of birth:

Licensed health care practitioner information

Name:

Phone number:

Address:

Type of provider:

- ☐ **Physician** (licensed in Maryland under Title 14 of the Health Occupations Article, or licensed in another state and meets the requirements to qualify for a license to practice in Maryland)
- ☐ **Psychologist** (licensed in Maryland under Title 18 of the Health Occupations Article, or licensed in another state and meets the requirements to qualify for a license to practice in Maryland)
- ☐ **Nurse practitioner, nurse psychotherapist or clinical nurse specialist** (licensed in Maryland under Title 8 of the Health Occupations Article, or licensed in another state and meets the requirements to qualify for a license in Maryland)
- ☐ **Licensed certified social worker--clinical** (licensed in Maryland under Title 19 of the Health Occupations Article, or licensed in another state and meets the requirements to qualify for a license in Maryland)

State of
licensure:

License
Number:

Affidavit

I am a licensed health care practitioner in good standing and have treated or evaluated the patient/client indicated above. I hereby certify that this individual has undergone surgical, hormonal, or other treatment appropriate for the individual, based on generally accepted medical standards, or that the individual has an intersex condition. In my professional opinion, based on generally accepted medical standards, the individual's sex designation should be changed from:

- ☐ Male to Female
- ☐ Female to Male

I declare under penalty of perjury that the information above is true and accurate.

X

Signature of health care practitioner

Date

Appendix E3

FreeState Justice, Maryland

Administrative Gender Change FAQ



2526 SAINT PAUL STREET
BALTIMORE, MD 21218
TEL (410) 625-LGBT (5428)
FAX (410) 625-7423
www.freestate-justice.org

MARYLAND ADMINISTRATIVE GENDER CHANGE FAQ

Did you know that if you were born in Maryland, there's an inexpensive administrative option to change the gender on your birth certificate that doesn't require you to go to court?

Since 2015, individuals with Maryland birth certificates can [submit paperwork](#) to the Maryland Department of Health and Mental Hygiene's Division of Vital Records to change the gender on their birth certificate.

Who does the law apply to?

You can take advantage of the administrative name change process if:

- You have a Maryland birth certificate, and
- You have "undergone treatment appropriate for the purpose of sex transition" or have been diagnosed with an intersex condition.

I wasn't born in Maryland. Can I use this process?

No. This only applies to individuals with Maryland birth certificates. For information about how to amend an out-of-state birth certificate, see the [National Center for Transgender Equality's ID Documents Center](#) or contact FreeState Justice.

Does "treatment" require surgery?

No! The administrative gender change process is available if you have "undergone surgical, hormonal, or other treatment appropriate for the individual, based on generally accepted medical standards." No specific treatment is required, though a health care practitioner will need to confirm you are receiving or have received some sort of treatment.

Is "treatment" required if I'm intersex?

No! You just need to submit a form signed by a health care practitioner confirming your diagnosis with an intersex condition. No treatment of any kind is required in that situation. That said, under current policy, the administrative gender change process can only be used to change your birth certificate to a binary gender (Female or Male), so your birth certificate won't list your gender as Intersex.

Who counts as a "health care practitioner"?

"Health care practitioner" includes physicians, psychologists, nurse practitioners, nurse psychotherapists, clinical nurse specialists, and some licensed social workers. The practitioner does not have to practice in Maryland. Not included are physician assistants (PAs), though patients regularly seen by PAs can typically have the form signed by the PA's supervising physician.

How much does this cost?

The Division of Vital Records charges \$20 to change your gender through this process, which is much less than the cost of changing your gender in the courts. If you need additional certified copies of your birth certificate, these will cost an additional \$10 each. You may also need to pay medical expenses in order to get the form signed by a health care practitioner.



2526 SAINT PAUL STREET
BALTIMORE, MD 21218
TEL (410) 625-LGBT (5428)
FAX (410) 625-7423
www.freestate-justice.org

Can I change my gender to something other than Male or Female using this process?

Not at this time. If you are nonbinary, intersex, or otherwise want a third gender option for your birth certificate, contact FreeState and we can let you know about potential options.

But I thought I could now get an “X” gender marker in Maryland.

As of October 1, 2019, you can get an “X” gender marker (defined as “Unspecified or Other”) on your Maryland driver’s license or ID card issued by the Motor Vehicle Administration. That law did not, however, cover birth certificates issued by the Division of Vital Records. The 2019 law’s provisions allowing for self-attestation of gender without confirmation from a health care provider also does not apply to the birth certificate process.

Can I change my name through this process?

No. To change your name, you still need to file a petition with the courts. But, if you already have a court order changing your name but have not yet amended your birth certificate, you can attach a copy of that to the application to change your gender. The Division of Vital Records will then also change your name on your new birth certificate.

I’m under 18. Can I use this process to change my gender?

Yes, but your parent or legal guardian will need to apply on your behalf.

Will the new birth certificate be marked as “amended”?

No! You will receive a new birth certificate that does not state it has been amended. Also, if you previously obtained an amended Maryland birth certificate, you can use this process to receive a new birth certificate that does not specify it has been amended.

Are there any situations in which I might want to get a court order instead of using the administrative gender change process?

In certain situations, including where individuals are incarcerated, at risk of incarceration or institutionalization, or otherwise have a heightened need for legal documents affirming their gender, they may want to get a court order recognizing their gender. If you think this may apply to you, contact FreeState Justice.

Okay, what do I need to do to apply?

The Division of Vital Records has prepared a [fact sheet and form](#) that can be used to apply for an administrative gender change. Fill out the second page yourself, then have your health care practitioner fill out the third page. You can then mail the completed form, along with the \$10 fee (checks or money orders should be made out to the State of Maryland), to the Division of Vital Records:

Division of Vital Records,
6764-B Reisterstown Road
Baltimore, Maryland 21215

Appendix E4

FreeState Justice, Identity Documents and Nonbinary Folks



2526 SAINT PAUL STREET
BALTIMORE, MD 21218
TEL (410) 625-LGBT (5428)
FAX (410) 625-7423
www.freestate-justice.org

Identity Documents and Nonbinary Folks

We know gender isn't a binary. Unfortunately, many government agencies and private organizations haven't gotten the memo yet. A third gender marker – usually an X – is available on some documents, including Maryland driver's licenses and state IDs starting October 1, 2019, but in far too many cases our only options are an F or an M.

What's a nonbinary person to do?

Your Documents Don't Have to Match

The good news is that it's not a legal issue if the gender markers on your identity documents don't match each other. Even if you can't get an X on your birth certificate (more on that later) or passport, that shouldn't stop you from getting one on your driver's license or state ID. In fact, many nonbinary people have documents with all three gender markers! And that's going to be true until more government agencies recognize the validity of our genders.

What Can I Get with an “X” Marker?

If you live and were born in Maryland, as of October 1, 2019 you'll be able to get a license with an X marker (Maryland law defines the X as “Unspecified or Other”). You can also change the gender on your voter registration to X, which may help minimize some awkward moments at the polling place. Finally, school districts have started adopting X markers for nonbinary students. Ask your administration about it if they don't offer it already, and reach out to FreeState if they refuse to change their policy.

Unfortunately, Maryland does not offer third gender markers on birth certificates. We're working to get that changed, but in the meantime if you are nonbinary and want to learn more about your potential options, contact C.P. Hoffman at cphoffman@freestate-justice.org.

If you were born in another state, you may be able to get an X or other third gender marker on your birth certificate. Check the status of your birth state on the National Center for Transgender Equality's [ID Documents Center](#).

But What about Federal Documents?

Unfortunately, the federal government does not yet recognize any genders other than male or female. There is ongoing litigation to require the State Department to issue passports with X gender markers, but in the meantime nonbinary travelers are stuck with binary gender options. Similarly, the Social Security Administration, Internal Revenue Service, and other agencies only recognize binary genders at present.

That said, the process of changing from one binary gender to another is fairly easy for the Department of State and Social Security Administration, so many nonbinary individuals opt to change to the binary gender other than the one they were assigned at birth (e.g., from Female to Male) in order to minimize issues with employers, immigration officials, etc. As noted above, the gender on your documents don't have to match.

Appendix E5

FreeState Justice, Provider Letters/Statements for Gender Changes on Identity Documents



Provider Letters/Statements for Gender Changes on Identity Documents

Several agencies accept or require letters or statements from physicians or other licensed healthcare practitioners to update gender on identity documents, including a Social Security card (*Social Security Administration*), Maryland birth certificate (*Division of Vital Records*), or U.S. passport (*U.S. Department of State*). The requirements of letters or statements are outlined below.

Social Security Administration

The Social Security Administration will accept a letter from your licensed physician in support of your gender change, stating that you have had “appropriate clinical treatment for gender transition.” The letter must be on the physician’s letterhead and should include the language below.

[DATE]

U.S. Social Security Administration

I, [physician’s full name, physician’s medical license or certificate number], issued by [U.S. State/Foreign Country], am the physician of [patient name], with whom I have a doctor/patient relationship and whom I have treated [or with whom I have a doctor/patient relationship and whose medical history I have reviewed and evaluated].

[Patient name] has had appropriate clinical treatment for gender transition to [female or male].

I declare under penalty of perjury under the laws of the United States that the forgoing is true and correct.

[Signature]

Typed Name of Physician

Address

Telephone Number

Note: The Social Security Administration will accept other forms of documentation to support a gender change on a Social Security card, including an updated birth certificate or U.S. passport, or a court order.



Maryland Division of Vital Records

The Maryland Division of Vital Records will accept a completed and signed [Statement of Licensed Health Practitioner](#) form in support of your gender change. A licensed health practitioner may be a physician, psychologist, nurse practitioner, nurse psychotherapist, clinical nurse specialist, or licensed certified social worker--clinical.

Note: The Maryland Division of Vital Records will also accept a court order in support of a gender change on a Maryland birth certificate.

U.S. Department of State

The U.S. Department of State *requires* a letter from your licensed physician in support of your gender change, stating that you have had “appropriate clinical treatment for gender transition.” The letter must be on the physician’s letterhead and should include the language below.

[DATE]

U.S. Department of State

I, [physician’s full name, physician’s medical license or certificate number], issued by [U.S. State/Foreign Country], am the physician of [patient name], with whom I have a doctor/patient relationship and whom I have treated [or with whom I have a doctor/patient relationship and whose medical history I have reviewed and evaluated].

[Patient name] has had appropriate clinical treatment for gender transition to [female or male].

I declare under penalty of perjury under the laws of the United States that the forgoing is true and correct.

[Signature]

Typed Name of Physician

Address

Telephone Number

Note: The U.S. Department of State will not accept any other form of documentation to support a gender change on a passport, including a court order.



A Note about Physician's Assistant Providers

Although many physician's assistants (PAs) provide primary and gender-affirming care, PAs are currently not approved to provide the letters or statements in support of a gender change described above. Therefore, a supervisory physician will need to complete and sign letters or statements in support of a gender change for individuals who receive medical healthcare from a PA.

Assistance with Obtaining Provider Letters/Statements

FreeState Justice can assist with the process of obtaining provider letters or statements in support of a gender change on your identity documents. Please contact us for help to navigate the process.

If you receive care at **Chase Brexton**, you may request provider letters or statements directly from your provider, or you may contact the LGBT Health Resource Center with questions at lgbt@chasebrexton.org or 410-837-2050 ext. 1049.

If you receive care at **Whitman-Walker Health**, you may contact Leonor Suarez in the legal department for assistance with requesting provider letters at lsuarez@whitman-walker.org or 202-939-7630.

Depending on the circumstances, getting a provider letter can take several weeks, so be sure to allocate plenty of time for it. You can often ask for provider letters while a name change is pending before the courts.

Appendix E6
SS-5
Application for a Social Security Card

Application for a Social Security Card

Applying for a Social Security Card is free!

USE THIS APPLICATION TO:

- Apply for an original Social Security card
- Apply for a replacement Social Security card
- Change or correct information on your Social Security number record

IMPORTANT: You **MUST** provide a properly completed application and the required evidence before we can process your application. We can only accept original documents or documents certified by the custodian of the original record. Notarized copies or photocopies which have not been certified by the custodian of the record are not acceptable. We will return any documents submitted with your application. For assistance call us at 1-800-772-1213 or visit our website at www.socialsecurity.gov.

Original Social Security Card

To apply for an original card, you must provide at least two documents to prove age, identity, and U.S. citizenship or current lawful, work-authorized immigration status. If you are not a U.S. citizen and do not have DHS work authorization, you must prove that you have a valid non-work reason for requesting a card. See page 2 for an explanation of acceptable documents.

NOTE: If you are age 12 or older and have never received a Social Security number, you must apply in person.

Replacement Social Security Card

To apply for a replacement card, you must provide one document to prove your identity. If you were born outside the U.S., you must also provide documents to prove your U.S. citizenship or current, lawful, work-authorized status. See page 2 for an explanation of acceptable documents.

Changing Information on Your Social Security Record

To change the information on your Social Security number record (i.e., a name or citizenship change, or corrected date of birth) you must provide documents to prove your identity, support the requested change, and establish the reason for the change. For example, you may provide a birth certificate to show your correct date of birth. A document supporting a name change must be recent and identify you by both your old and new names. If the name change event occurred over two years ago or if the name change document does not have enough information to prove your identity, you must also provide documents to prove your identity in your prior name and/or in some cases your new legal name. If you were born outside the U.S. you must provide a document to prove your U.S. citizenship or current lawful, work-authorized status. See page 2 for an explanation of acceptable documents.

LIMITS ON REPLACEMENT SOCIAL SECURITY CARDS

Public Law 108-458 limits the number of replacement Social Security cards you may receive to 3 per calendar year and 10 in a lifetime. Cards issued to reflect changes to your legal name or changes to a work authorization legend do not count toward these limits. We may also grant exceptions to these limits if you provide evidence from an official source to establish that a Social Security card is required.

IF YOU HAVE ANY QUESTIONS

If you have any questions about this form or about the evidence documents you must provide, please visit our website at www.socialsecurity.gov for additional information as well as locations of our offices and Social Security Card Centers. You may also call Social Security at 1-800-772-1213. You can also find your nearest office or Card Center in your local phone book.

EVIDENCE DOCUMENTS

The following lists are examples of the types of documents you must provide with your application and are not all inclusive. Call us at 1-800-772-1213 if you cannot provide these documents.

IMPORTANT : If you are completing this application on behalf of someone else, you must provide evidence that shows your authority to sign the application as well as documents to prove your identity and the identity of the person for whom you are filing the application. We can only accept original documents or documents certified by the custodian of the original record. Notarized copies or photocopies which have not been certified by the custodian of the record are not acceptable.

Evidence of Age

In general, you must provide your birth certificate. In some situations, we may accept another document that shows your age. Some of the other documents we may accept are:

- U.S. hospital record of your birth (created at the time of birth)
- Religious record established before age five showing your age or date of birth
- Passport
- Final Adoption Decree (the adoption decree must show that the birth information was taken from the original birth certificate)

Evidence of Identity

You must provide current, unexpired evidence of identity in your legal name. Your legal name will be shown on the Social Security card. Generally, we prefer to see documents issued in the U.S. Documents you submit to establish identity must show your legal name AND provide biographical information (your date of birth, age, or parents' names) **and/or** physical information (photograph, or physical description - height, eye and hair color, etc.). If you send a photo identity document but do not appear in person, the document must show your biographical information (e.g., your date of birth, age, or parents' names). Generally, documents without an expiration date should have been issued within the past two years for adults and within the past four years for children.

As proof of your identity, you must provide a:

- U.S. driver's license; or
- U.S. State-issued non-driver identity card; or
- U.S. passport

If you do not have one of the documents above or cannot get a replacement within 10 work days, we may accept other documents that show your legal name and biographical information, such as a U.S. military identity card, Certificate of Naturalization, employee identity card, certified copy of medical record (clinic, doctor or hospital), health insurance card, Medicaid card, or school identity card/record. For young children, we may accept medical records (clinic, doctor, or hospital) maintained by the medical provider. We may also accept a final adoption decree, or a school identity card, or other school record maintained by the school.

If you are not a U.S. citizen, we must see your current U.S. immigration document(s) and your foreign passport with biographical information or photograph.

WE CANNOT ACCEPT A BIRTH CERTIFICATE, HOSPITAL SOUVENIR BIRTH CERTIFICATE, SOCIAL SECURITY CARD STUB OR A SOCIAL SECURITY RECORD as evidence of identity.

Evidence of U.S. Citizenship

In general, you must provide your U.S. birth certificate or U.S. Passport. Other documents you may provide are a Consular Report of Birth, Certificate of Citizenship, or Certificate of Naturalization.

Evidence of Immigration Status

You must provide a current unexpired document issued to you by the Department of Homeland Security (DHS) showing your immigration status, such as Form I-551, I-94, or I-766. If you are an international student or exchange visitor, you may need to provide additional documents, such as Form I-20, DS-2019, or a letter authorizing employment from your school and employer (F-1) or sponsor (J-1). We **CANNOT** accept a receipt showing you applied for the document. If you are not authorized to work in the U.S., we can issue you a Social Security card only if you need the number for a valid non-work reason. Your card will be marked to show you cannot work and if you do work, we will notify DHS. See page 3, item 5 for more information.

HOW TO COMPLETE THIS APPLICATION

Complete and sign this application LEGIBLY using ONLY black or blue ink on the attached or downloaded form using only 8 ½" x 11" (or A4 8.25" x 11.7") paper.

GENERAL: Items on the form are self-explanatory or are discussed below. The numbers match the numbered items on the form. If you are completing this form for someone else, please complete the items as they apply to that person.

4. Show the month, day, and full (4 digit) year of birth; for example, "1998" for year of birth.
5. If you check "Legal Alien Not Allowed to Work" or "Other," you must provide a document from a U.S. Federal, State, or local government agency that explains why you need a Social Security number and that you meet all the requirements for the government benefit. NOTE: Most agencies do not require that you have a Social Security number. Contact us to see if your reason qualifies for a Social Security number.
- 6., 7. Providing race and ethnicity information is voluntary and is requested for informational and statistical purposes only. Your choice whether to answer or not does not affect decisions we make on your application. If you do provide this information, we will treat it very carefully.
- 9.B., 10.B. If you are applying for an original Social Security card for a child under age 18, you **MUST** show the parents' Social Security numbers unless the parent was never assigned a Social Security number. If the number is not known and you cannot obtain it, check the "unknown" box.
13. If the date of birth you show in item 4 is different from the date of birth currently shown on your Social Security record, show the date of birth currently shown on your record in item 13 and provide evidence to support the date of birth shown in item 4.
16. Show an address where you can receive your card 7 to 14 days from now.
17. **WHO CAN SIGN THE APPLICATION?** If you are age 18 or older and are physically and mentally capable of reading and completing the application, you must sign in item 17. If you are under age 18, you may either sign yourself, or a parent or legal guardian may sign for you. If you are over age 18 and cannot sign on your own behalf, a legal guardian, parent, or close relative may generally sign for you. If you cannot sign your name, you should sign with an "X" mark and have two people sign as witnesses in the space beside the mark. Please do not alter your signature by including additional information on the signature line as this may invalidate your application. Call us if you have questions about who may sign your application.

HOW TO SUBMIT THIS APPLICATION

In most cases, you can take or mail this signed application with your documents to any Social Security office. Any documents you mail to us will be returned to you. Go to <https://secure.ssa.gov/apps6z/FOLO/fo001.jsp> to find the Social Security office or Social Security Card Center that serves your area.

PROTECT YOUR SOCIAL SECURITY NUMBER AND CARD

Protect your SSN card and number from loss and identity theft. DO NOT carry your SSN card with you. Keep it in a secure location and only take it with you when you must show the card; e.g., to obtain a new job, open a new bank account, or to obtain benefits from certain U.S. agencies. Use caution in giving out your Social Security number to others, particularly during phone, mail, email and Internet requests you did not initiate.

PRIVACY ACT STATEMENT
Collection and Use of Personal Information

Sections 205(c) and 702 of the Social Security Act, as amended, allow us to collect this information. Furnishing us this information is voluntary. However, failing to provide all or part of the information may prevent us from assigning you a Social Security number (SSN) and issuing you a new or replacement Social Security card.

We will use the information to assign you an SSN and issue you a new or replacement Social Security card. We may also share your information for the following purposes, called routine uses:

- To Federal, State, and local entities to assist them with administering income maintenance and health maintenance programs, when a Federal statute authorizes them to use the SSN; and,
- To the Department of State for administering the Social Security Act in foreign countries through its facilities and services.

In addition, we may share this information in accordance with the Privacy Act and other Federal laws. For example, where authorized, we may use and disclose this information in computer matching programs, in which our records are compared with other records to establish or verify a person's eligibility for Federal benefit programs and for repayment of incorrect or delinquent debts under these programs.

A list of additional routine uses is available in our Privacy Act System of Records Notice (SORN) 60-0058, entitled Master Files of Social Security Number (SSN) Holders and SSN Applications, as published in the Federal Register (FR) on December 29, 2010, at 75 FR 82121. Additional information, and a full listing of all of our SORNs, is available on our website at www.ssa.gov/privacy.

Paperwork Reduction Act Statement - This information collection meets the requirements of 44 U.S.C. § 3507, as amended by section 2 of the Paperwork Reduction Act of 1995. You do not need to answer these questions unless we display a valid Office of Management and Budget control number. We estimate that it will take about 8.5 to 9.5 minutes to read the instructions, gather the facts, and answer the questions. **SEND OR BRING THE COMPLETED FORM TO YOUR LOCAL SOCIAL SECURITY OFFICE. You can find your local Social Security office through SSA's website at www.socialsecurity.gov. Offices are also listed under U. S. Government agencies in your telephone directory or you may call Social Security at 1-800-772-1213 (TTY 1-800-325-0778). You may send comments on our time estimate above to: SSA, 6401 Security Blvd, Baltimore, MD 21235-6401. Send only comments relating to our time estimate to this address, not the completed form.**

Application for a Social Security Card

1	NAME TO BE SHOWN ON CARD		First	Full Middle Name	Last
	FULL NAME AT BIRTH IF OTHER THAN ABOVE		First	Full Middle Name	Last
	OTHER NAMES USED				
2	Social Security number previously assigned to the person listed in item 1			<div style="border: 1px solid black; width: 20px; height: 20px; display: inline-block;"></div> <div style="border: 1px solid black; width: 20px; height: 20px; display: inline-block;"></div> <div style="border: 1px solid black; width: 20px; height: 20px; display: inline-block;"></div>	<div style="border: 1px solid black; width: 20px; height: 20px; display: inline-block;"></div> <div style="border: 1px solid black; width: 20px; height: 20px; display: inline-block;"></div>
3	PLACE OF BIRTH (Do Not Abbreviate) City State or Foreign Country FCI			4	DATE OF BIRTH MM/DD/YYYY
5	CITIZENSHIP (Check One)	<input type="checkbox"/> U.S. Citizen <input type="checkbox"/> Legal Alien Allowed To Work <input type="checkbox"/> Legal Alien Not Allowed To Work (See Instructions On Page 3) <input type="checkbox"/> Other (See Instructions On Page 3)			
6	ETHNICITY Are You Hispanic or Latino? (Your Response is Voluntary) <input type="checkbox"/> Yes <input type="checkbox"/> No	7	RACE Select One or More (Your Response is Voluntary)	<input type="checkbox"/> Native Hawaiian <input type="checkbox"/> American Indian <input type="checkbox"/> Other Pacific Islander <input type="checkbox"/> Alaska Native <input type="checkbox"/> Black/African American <input type="checkbox"/> White <input type="checkbox"/> Asian	
8	SEX	<input type="checkbox"/> Male <input type="checkbox"/> Female			
9	A. PARENT/ MOTHER'S NAME AT HER BIRTH		First	Full Middle Name	Last
	B. PARENT/ MOTHER'S SOCIAL SECURITY NUMBER (See instructions for 9B on Page 3)		<div style="border: 1px solid black; width: 20px; height: 20px; display: inline-block;"></div> <div style="border: 1px solid black; width: 20px; height: 20px; display: inline-block;"></div> <div style="border: 1px solid black; width: 20px; height: 20px; display: inline-block;"></div>	<div style="border: 1px solid black; width: 20px; height: 20px; display: inline-block;"></div> <div style="border: 1px solid black; width: 20px; height: 20px; display: inline-block;"></div>	<div style="border: 1px solid black; width: 20px; height: 20px; display: inline-block;"></div> <div style="border: 1px solid black; width: 20px; height: 20px; display: inline-block;"></div> <div style="border: 1px solid black; width: 20px; height: 20px; display: inline-block;"></div> <div style="border: 1px solid black; width: 20px; height: 20px; display: inline-block;"></div>
10	A. PARENT/ FATHER'S NAME		First	Full Middle Name	Last
	B. PARENT/ FATHER'S SOCIAL SECURITY NUMBER (See instructions for 10B on Page 3)		<div style="border: 1px solid black; width: 20px; height: 20px; display: inline-block;"></div> <div style="border: 1px solid black; width: 20px; height: 20px; display: inline-block;"></div> <div style="border: 1px solid black; width: 20px; height: 20px; display: inline-block;"></div>	<div style="border: 1px solid black; width: 20px; height: 20px; display: inline-block;"></div> <div style="border: 1px solid black; width: 20px; height: 20px; display: inline-block;"></div>	<div style="border: 1px solid black; width: 20px; height: 20px; display: inline-block;"></div> <div style="border: 1px solid black; width: 20px; height: 20px; display: inline-block;"></div> <div style="border: 1px solid black; width: 20px; height: 20px; display: inline-block;"></div> <div style="border: 1px solid black; width: 20px; height: 20px; display: inline-block;"></div>
11	Has the person listed in item 1 or anyone acting on his/her behalf ever filed for or received a Social Security number card before? <input type="checkbox"/> Yes (If "yes" answer questions 12-13) <input type="checkbox"/> No <input type="checkbox"/> Don't Know (If "don't know," skip to question 14.)				
12	Name shown on the most recent Social Security card issued for the person listed in item 1		First	Full Middle Name	Last
13	Enter any different date of birth if used on an earlier application for a card			MM/DD/YYYY	
14	TODAY'S DATE MM/DD/YYYY		15	DAYTIME PHONE NUMBER Area Code Number	
16	MAILING ADDRESS (Do Not Abbreviate)		Street Address, Apt. No., PO Box, Rural Route No.		
			City	State/Foreign Country	ZIP Code
17	I declare under penalty of perjury that I have examined all the information on this form, and on any accompanying statements or forms, and it is true and correct to the best of my knowledge.				
	YOUR SIGNATURE		18	YOUR RELATIONSHIP TO THE PERSON IN ITEM 1 IS: <input type="checkbox"/> Self <input type="checkbox"/> Natural Or Adoptive Parent <input type="checkbox"/> Legal Guardian <input type="checkbox"/> Other Specify _____	
DO NOT WRITE BELOW THIS LINE (FOR SSA USE ONLY)					
NPN		DOC	NTI	CAN	ITV
PBC	EVI	EVA	EVC	PRA	NWR DNR UNIT
EVIDENCE SUBMITTED				SIGNATURE AND TITLE OF EMPLOYEE(S) REVIEWING EVIDENCE AND/OR CONDUCTING INTERVIEW	
				DATE	
				DCL	DATE

Appendix E7
DS-11
Application for a U.S. Passport



U.S. PASSPORT APPLICATION

PLEASE DETACH AND RETAIN THIS INSTRUCTION SHEET FOR YOUR RECORDS

FOR INFORMATION AND QUESTIONS

Visit the official Department of State website at travel.state.gov or contact the National Passport Information Center (NPIC) via toll-free at 1-877-487-2778 (TDD: 1-888-874-7793) and NPIC@state.gov. Customer Service Representatives are available Monday-Friday 8:00a.m.-10:00p.m. Eastern Time (excluding federal holidays). Automated information is available 24 hours a day, 7 days a week.

WHAT TO SUBMIT WITH THIS FORM:

1. **PROOF OF U.S. CITIZENSHIP:** Evidence of U.S. citizenship **AND a photocopy** of the front (and back, if there is printed information) must be submitted with your application. The photocopy must be on 8 ½ inch by 11 inch paper, black and white ink, legible, and clear. Evidence that is not damaged, altered, or forged will be returned to you. **Note:** Lawful permanent resident cards submitted with this application will be forwarded to U.S. Citizenship and Immigration Services, if we determine that you are a U.S. citizen.
2. **PROOF OF IDENTITY:** You must present your original identification **AND submit a photocopy** of the front and back with your passport application.
3. **RECENT COLOR PHOTOGRAPH:** Photograph must meet passport requirements – full front view of the face and 2x2 inches in size.
4. **FEES:** Please visit our website at travel.state.gov for current fees.

HOW TO SUBMIT THIS FORM:

Complete and submit this application in person to a designated acceptance agent: a clerk of a federal or state court of record or a judge or clerk of a probate court accepting applications; a designated municipal or county official; a designated postal employee at an authorized post office; an agent at a passport agency (by appointment only); or a U.S. consular official at a U.S. Embassy or Consulate, if abroad. To find your nearest acceptance facility, visit travel.state.gov or contact the National Passport Information Center at 1-877-487-2778.

Follow the instructions on Page 2 for detailed information to completion and submission of this form.

REQUIREMENTS FOR CHILDREN

● AS DIRECTED BY PUBLIC LAW 106-113 AND 22 CFR 51.28:

To submit an application for a child under age 16 **both parents or the child's legal guardian(s) must appear** and present the following:

- Evidence of the child's U.S. citizenship;
- Evidence of the child's relationship to parents/guardian(s); **AND**
- Original parental/guardian government-issued identification **AND a photocopy** of the front and back side of presented identification.

IF ONLY ONE PARENT APPEARS, YOU MUST ALSO SUBMIT ONE OF THE FOLLOWING:

- Second parent's notarized written statement or DS-3053 (including the child's full name and date of birth) consenting to the passport issuance for the child. The notarized statement **cannot** be more than **three** months old and **must** be signed and notarized on the same day, and **must** come with a photocopy of the front and back side of the second parent's government-issued photo identification; **OR**
- Second parent's death certificate if second parent is deceased; **OR**
- Primary evidence of sole authority to apply, such as a court order; **OR**
- A written statement or DS-5525 (made under penalty of perjury) explaining in detail the second parent's unavailability.

● AS DIRECTED BY REGULATION 22 C.F.R. 51.21 AND 51.28:

- Each minor child applying for a U.S. passport book and/or passport card must appear in person.

PASSPORT VALIDITY LENGTH

If you are 16 years of age or older: Your U.S. passport will be valid for 10 years from the date of issue except where limited by the Secretary of State to a shorter period.

If you are under 16 years of age: Your U.S. passport will be valid for five years from the date of issue except where limited by the Secretary of State to a shorter period.

APPLICANTS WHO HAVE HAD A PREVIOUS U.S. PASSPORT BOOK AND/OR PASSPORT CARD

LOST OR STOLEN - If you cannot submit your valid or potentially valid U.S. passport book and/or passport card with this application and you have not previously submitted Form DS-64, Statement Regarding a Lost or Stolen U.S. Passport, you are required to fill out and submit a DS-64 with this application.

IN MY POSSESSION - If your most recent U.S. passport book and/or passport card was issued less than 15 years ago, and you were over the age of 16 at the time of issuance, you may be eligible to use Form DS-82 to renew your passport by mail.

FAILURE TO PROVIDE INFORMATION REQUESTED ON THIS FORM, INCLUDING YOUR SOCIAL SECURITY NUMBER, MAY RESULT IN SIGNIFICANT PROCESSING DELAYS AND/OR THE DENIAL OF YOUR APPLICATION.

WARNING: False statements made knowingly and willfully in passport applications, including affidavits or other documents submitted to support this application, are punishable by fine and/or imprisonment under U.S. law including the provisions of 18 U.S.C. 1001, 18 U.S.C. 1542, and/or 18 U.S.C. 1621. Alteration or mutilation of a passport issued pursuant to this application is punishable by fine and/or imprisonment under the provisions of 18 U.S.C. 1543. The use of a passport in violation of the restrictions contained herein or of the passport regulations is punishable by fine and/or imprisonment under 18 U.S.C. 1544. All statements and documents are subject to verification.

PROOF OF U.S. CITIZENSHIP

APPLICANTS BORN IN THE UNITED STATES: Submit a previous U.S. passport or **certified** birth certificate. Passports that are limited in validity will need to be supplemented by other evidence. A birth certificate must include your full name, date and place of birth, sex, date the birth record was filed, the seal or other certification of the official custodian of such records (state, county, or city/town office), and the full names of your parent(s).

- **If the birth certificate was filed more than 1 year after the birth:** It must be supported by evidence described in the next paragraph.
- **If no birth record exists:** Submit a registrar's notice to that effect. Also, submit a combination of the evidence listed below, which should include your given name and surname, date and/or place of birth, and the seal or other certification of the office (if customary), and the signature of the issuing official.
 - A hospital birth record;
 - An early baptismal or circumcision certificate;
 - Early census, school, medical, or family Bible records;
 - Insurance files or published birth announcements (such as a newspaper article); and
 - Notarized affidavits (or DS-10, Birth Affidavit) of older blood relatives having knowledge of your birth may be submitted **in addition to** some of the records listed above.

APPLICANTS BORN OUTSIDE THE UNITED STATES: Submit a previous U.S. passport, Certificate of Naturalization, Certificate of Citizenship, Consular Report of Birth Abroad, or evidence described below:

- **If you claim citizenship through naturalization of parent(s):** Submit the Certificate(s) of Naturalization of your parent(s), your foreign birth certificate (and official translation if the document is not in English), proof of your admission to the United States for permanent residence, **and** your parents' marriage/certificate and/or evidence that you were in the legal and physical custody of your U.S. citizen parent, if applicable.
- **If you claim citizenship through birth abroad to at least one U.S. citizen parent:** Submit a Consular Report of Birth (Form FS-240), Certification of Birth (Form DS-1350 or FS-545), or your foreign birth certificate (and official translation if the document is not in English), proof of U.S. citizenship of your parent, your parents' marriage certificate, **and** an affidavit showing all of your U.S. citizen parents' periods and places of residence/physical presence in the United States and abroad before your birth.
- **If you claim citizenship through adoption by a U.S. citizen parent(s):** Submit evidence of your permanent residence status, full and final adoption, **and** your U.S. citizen parent(s) evidence of legal and physical custody. (**NOTE:** Acquisition of U.S. citizenship for persons born abroad and adopted only applies if the applicant was born on or after 02/28/1983.)

ADDITIONAL EVIDENCE: You must establish your citizenship to the satisfaction of the acceptance agent and Passport Services. We may ask you to provide additional evidence to establish your claim to U.S. citizenship. Visit travel.state.gov for details.

PROOF OF IDENTITY

You may submit items such as the following containing your signature AND a photograph that is a good likeness of you: previous or current U.S. passport book; previous or current U.S. passport card; driver's license (not temporary or learner's license); Certificate of Naturalization; Certificate of Citizenship; military identification; or federal, state, or municipal government employee identification card. Temporary or altered documents are not acceptable.

You must establish your identity to the satisfaction of the acceptance agent and Passport Services. We may ask you to provide additional evidence to establish your identity. If you have changed your name, please see travel.state.gov for instructions.

IF YOU CANNOT PROVIDE DOCUMENTARY EVIDENCE OF IDENTITY as stated above, you must appear with an IDENTIFYING WITNESS, who is a U.S. citizen, non-citizen U.S. national, or permanent resident alien that has known you for at least two years. Your witness must prove his or her identity and complete and sign an Affidavit of Identifying Witness (Form DS-71) before the acceptance agent. You must also submit some identification of your own.

COLOR PHOTOGRAPH

Submit a color photograph of you alone, sufficiently recent to be a good likeness of you (taken within the last six months), and 2x2 inches in size. The image size measured from the bottom of your chin to the top of your head (including hair) should not be less than 1 inch, and not more than 1 3/8 inches. The photograph must be in color, clear, with a full front view of your face. The photograph must be taken with a neutral facial expression (preferred) or a natural smile, and with both eyes open and be printed on photo quality paper with a plain light (white or off-white) background. The photograph must be taken in normal street attire, without a hat, or head covering unless a signed statement is submitted by the applicant verifying that the hat or head covering is part of recognized, traditional religious attire that is customarily or required to be worn continuously when in public or a signed doctor's statement is submitted verifying the item is used daily for medical purposes. Headphones, "bluetooth", or similar devices must not be worn in the passport photograph. Glasses or other eyewear are not acceptable unless you provide a signed statement from a doctor explaining why you cannot remove them due to medical reasons (e.g., during the recovery period from eye surgery). Any photograph retouched so that your appearance is changed is unacceptable. A snapshot, most vending machine prints, hand-held self portraits, and magazine or full-length photographs are unacceptable. A digital photo must meet the previously stated qualifications, and will be accepted for use at the discretion of Passport Services. Visit our website at travel.state.gov for details and information.

FEES

FEES ARE LISTED ON OUR WEBSITE AT [TRAVEL.STATE.GOV](http://travel.state.gov). BY LAW, THE PASSPORT FEES ARE NON-REFUNDABLE.

• **The passport application fee, security surcharge, and expedite fee may be paid in any of the following forms:** Checks (personal, certified, or traveler's) with the applicant's full name and date of birth printed on the front; major credit card (Visa, Master Card, American Express, and Discover); bank draft or cashier's check; money order (U.S. Postal, international, currency exchange), or if abroad, the foreign currency equivalent, or a check drawn on a U.S. bank. All fees should be payable to the "U.S. Department of State" or if abroad, the appropriate U.S. Embassy or U.S. Consulate. When applying at a designated acceptance facility, the execution fee will be paid separately and should be made payable to the acceptance facility. **NOTE: Some designated acceptance facilities do not accept credit cards as a form of payment.**

• **For faster processing,** you may request expedited service. Please include the expedite fee in your payment. Our website contains updated information regarding fees and processing times for expedited service. Expedited service is only available for passports mailed in the United States and Canada.

• **OVERNIGHT DELIVERY SERVICE** is only available for passport book mailings in the United States. Please include the appropriate fee with your payment.

• An additional fee will be charged when, upon your request, the U.S. Department of State verifies issuance of a previous U.S. passport or Consular Report of Birth Abroad because you are unable to submit evidence of U.S. citizenship.

• **For applicants with U.S. government or military authorization for no-fee passports,** no fees are charged except the execution fee when applying at a designated acceptance facility.

NOTE REGARDING MAILING OF YOUR PASSPORT(S)

Passport Services will not mail a U.S. passport to a private address outside the United States or Canada. If you do not live at the address listed in the "mailing address", then you must put the name of the person and mark it as "In Care Of" in item # 8. If your mailing address changes prior to receipt of your new passport, please contact the National Passport Information Center.

If you choose to provide your email address in Item #6 on this application, Passport Services may use that information to contact you in the event there is a problem with your application or if you need to provide information to us.

You may receive your newly issued passport book and/or card and your returned citizenship evidence in **two separate mailings**. If you are applying for both a U.S. passport book and passport card, **you may receive three separate mailings**; one with your returned citizenship evidence, one with your newly issued passport book, and one with your newly issued passport card.

FEDERAL TAX LAW

Section 6039E of the Internal Revenue Code (26 U.S.C. 6039E) and 22 U.S.C 2714a(f) require you to provide your Social Security number (SSN), if you have one, when you apply for or renew a U.S. passport. If you have never been issued a SSN, you must enter zeros in box #5 of this form. If you are residing abroad, you must also provide the name of the foreign country in which you are residing. The U.S. Department of State must provide your SSN and foreign residence information to the U.S. Department of the Treasury. If you fail to provide the information, your application may be denied and you are subject to a \$500 penalty enforced by the IRS. All questions on this matter should be referred to the nearest IRS office.

NOTICE TO CUSTOMERS APPLYING OUTSIDE A DEPARTMENT OF STATE FACILITY

If you send us a check, it will be converted into an electronic funds transfer (EFT). This means we will copy your check and use the account information on it to electronically debit your account for the amount of the check. The debit from your account will usually occur within 24 hours and will be shown on your regular account statement.

You will not receive your original check back. We will destroy your original check, but we will keep the copy of it. If the EFT cannot be processed for technical reasons, you authorize us to process the copy in place of your original check. If the EFT cannot be completed because of insufficient funds, we may try to make the transfer up to two times, and we will charge you a one-time fee of \$25, which we will also collect by EFT.

FEE REMITTANCE

Passport service fees are established by law and regulation (see 22 U.S.C. 214, 22 C.F.R. 22.1, and 22 C.F.R. 51.50-56), and are collected at the time you apply for the passport service. If the Department fails to receive full payment of the applicable fees because, for example, your check is returned for any reason or you dispute a passport fee charge to your credit card, the U.S. Department of State will take action to collect the delinquent fees from you under 22 C.F.R. Part 34, and the Federal Claims Collection Standards (see 31 C.F.R. Parts 900-904). In accordance with the Debt Collection Improvement Act (Pub.L. 104-134), if the fees remain unpaid after 180 days and no repayment arrangements have been made, the Department will refer the debt to the U.S. Department of Treasury for collection. Debt collection procedures used by U.S. Department of Treasury may include referral of the debt to private collection agencies, reporting of the debt to credit bureaus, garnishment of private wages and administrative offset of the debt by reducing, or withholding eligible federal payments (e.g., tax refunds, social security payments, federal retirement, etc.) by the amount of your debt, including any interest penalties or other costs incurred. In addition, non-payment of passport fees may result in the invalidation of your passport. An invalidated passport cannot be used for travel.

USE OF SOCIAL SECURITY NUMBER

Your Social Security number will be provided to U.S. Department of Treasury, used in connection with debt collection and checked against lists of persons ineligible or potentially ineligible to receive a U.S. passport, among other authorized uses.

NOTICE TO APPLICANTS FOR OFFICIAL, DIPLOMATIC, OR NO-FEE PASSPORTS

You may use this application if you meet all of the provisions listed on Instruction Page 2; however, you must **CONSULT YOUR SPONSORING AGENCY FOR INSTRUCTIONS ON PROPER ROUTING PROCEDURES BEFORE FORWARDING THIS APPLICATION**. Your completed passport will be released to your sponsoring agency for forwarding to you.

PROTECT YOURSELF AGAINST IDENTITY THEFT! REPORT YOUR LOST OR STOLEN PASSPORT BOOK OR PASSPORT CARD!

For more information regarding reporting a lost or stolen U.S. passport book or passport card (Form DS-64), or to determine your eligibility for a passport renewal (Form DS-82), call NPIC at 1-877-487-2778 or visit travel.state.gov.

NOTICE TO U.S. PASSPORT CARD APPLICANTS

The maximum number of letters provided for your given name (first and middle) on the U.S. passport card is 24 characters. The 24 characters may be shortened due to printing restrictions. If both your given names are more than 24 characters, you must shorten one of your given names you list on item 1 of this form.


U.S. passports, either in book or card format, are only issued to U.S. citizens or non-citizen U.S. nationals. Each person must obtain his or her own U.S. passport book or U.S. passport card. The passport card is a U.S. passport issued in card format. Like the traditional U.S. passport book, it reflects the bearer's origin, identity, and nationality, and is subject to existing passport laws and regulations. **Unlike the U.S. passport book, the U.S. passport card is valid only for entry at land border crossings and sea ports of entry when traveling from Canada, Mexico, the Caribbean, and Bermuda.** The U.S. passport card is **not** valid for international air travel.

ELECTRONIC PASSPORT STATEMENT

The U.S. Department of State now issues an "Electronic Passport" book, which contains an embedded electronic chip. The electronic passport book continues to be proof of the bearer's U.S. citizenship/nationality and identity, and looks and functions in the same way as a passport without a chip. The addition of an electronic chip in the back cover enables the passport book to carry a duplicate electronic copy of all information from the data page. The electronic passport book is usable at all ports-of-entry, including those that do not yet have electronic chip readers.

Use of the electronic format provides the traveler the additional security protections inherent in chip technology. Moreover, when used at ports-of-entry equipped with electronic chip readers, the electronic passport book provides for faster clearance through some of the port-of-entry processes.

The electronic passport book does not require special handling or treatment, but like previous versions should be protected from extreme heat, bending, and from immersion in water. The electronic chip must be read using specially formatted readers, which protects the data on the chip from unauthorized reading.

The cover of the electronic passport book is printed with a special symbol representing the embedded chip. The symbol  will appear in port-of-entry areas where the electronic passport book can be read.

ACTS OR CONDITIONS

If any of the below-mentioned acts or conditions have been performed by or apply to the applicant, the portion which applies should be lined out, and a supplementary explanatory statement under oath (or affirmation) by the applicant should be attached and made a part of this application.

I have not, since acquiring United States citizenship/nationality, been naturalized as a citizen of a foreign state; taken an oath or made an affirmation or other formal declaration of allegiance to a foreign state; entered or served in the armed forces of a foreign state; accepted or performed the duties of any office, post, or employment under the government of a foreign state or political subdivision thereof; made a formal renunciation of nationality either in the United States, or before a diplomatic or consular officer of the United States in a foreign state; or been convicted by a court or court martial of competent jurisdiction of committing any act of treason against, or attempting by force to overthrow, or bearing arms against, the United States, or conspiring to overthrow, put down, or to destroy by force, the government of the United States.

Furthermore, I have not been convicted of a federal or state drug offense or convicted of a "sex tourism" crimes statute, and I am not the subject of an outstanding federal, state, or local warrant of arrest for a felony; a criminal court order forbidding my departure from the United States; a subpoena received from the United States in a matter involving federal prosecution for, or grand jury investigation of, a felony.

PRIVACY ACT STATEMENT

AUTHORITIES: Collection of this information is authorized by 22 U.S.C. 211a et seq.; 8 U.S.C. 1104; 26 U.S.C. 6039E, 22 U.S.C. 2714a(f), Section 236 of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001; Executive Order 11295 (August 5, 1966); and 22 C.F.R. parts 50 and 51.

PURPOSE: We are requesting this information in order to determine your eligibility to be issued a U.S. passport. Your Social Security number is used to verify your identity.

ROUTINE USES: This information may be disclosed to another domestic government agency, a private contractor, a foreign government agency, or to a private person or private employer in accordance with certain approved routine uses. These routine uses include, but are not limited to, law enforcement activities, employment verification, fraud prevention, border security, counterterrorism, litigation activities, and activities that meet the Secretary of State's responsibility to protect U.S. citizens and non-citizen nationals abroad. More information on the Routine Uses for the system can be found in System of Records Notices State-05, Overseas Citizen Services Records and State-26, Passport Records.

DISCLOSURE: Providing information on this form is voluntary. Be advised, however, that failure to provide the information requested on this form may cause delays in processing your U.S. passport application and/or could result in the refusal or denial of your application.

Failure to provide your Social Security number may result in the denial of your application (consistent with 22 U.S.C. 2714a(f)) and may subject you to a penalty enforced by the Internal Revenue Service, as described in the Federal Tax Law section of the instructions to this form. Your Social Security number will be provided to the Department of the Treasury and may be used in connection with debt collection, among other purposes authorized and generally described in this section.

PAPERWORK REDUCTION ACT STATEMENT

Public reporting burden for this collection of information is estimated to average 85 minutes per response, including the time required for searching existing data sources, gathering the necessary data, providing the information and/or documents required, and reviewing the final collection. You do not have to supply this information unless this collection displays a currently valid OMB control number. If you have comments on the accuracy of this burden estimate and/or recommendations for reducing it, please send them to: U.S. Department of State, Bureau of Consular Affairs, Passport Services, Office of Legal Affairs and Law Enforcement Liaison, 44132 Mercure Cir, P.O. Box 1227, Sterling, Virginia 20166-1227

Name of Applicant (Last, First, & Middle)

Date of Birth (mm/dd/yyyy)

10. Parental Information

Mother/Father/Parent - First & Middle Name

Last Name (at Parent's Birth)

Date of Birth (mm/dd/yyyy)

Place of Birth

Sex

U.S. Citizen?

☐ Male ☐ Yes
☐ Female ☐ No

Mother/Father/Parent - First & Middle Name

Last Name (at Parent's Birth)

Date of Birth (mm/dd/yyyy)

Place of Birth

Sex

U.S. Citizen?

☐ Male ☐ Yes
☐ Female ☐ No

11. Have you ever been married?

☐ Yes ☐ No

If yes, complete the remaining items in #11.

Full Name of Current Spouse or Most Recent Spouse

Date of Birth (mm/dd/yyyy)

Place of Birth

U.S. Citizen?

Date of Marriage

Have you ever been widowed or divorced?

Widow/Divorce Date

☐ Yes ☐ No

(mm/dd/yyyy)

☐ Yes ☐ No

(mm/dd/yyyy)

12. Additional Contact Phone Number

13. Occupation (if age 16 or older)

14. Employer or School (if applicable)

☐ Home ☐ Cell
☐ Work

15. Height

16. Hair Color

17. Eye Color

18. Travel Plans

Departure Date (mm/dd/yyyy)

Return Date (mm/dd/yyyy)

Countries to be Visited

19. Permanent Address - If P.O. Box is listed under Mailing Address or if residence is different from Mailing Address.

Street/RFD # or URB (**No P.O. Box**)

Apartment/Unit

City

State

Zip Code

20. Emergency Contact - Provide the information of a person not traveling with you to be contacted in the event of an emergency.

Name

Address: Street/RFD # or P.O. Box

Apartment/Unit

City

State

Zip Code

Phone Number

Relationship

21. Have you ever applied for or been issued a U.S. Passport Book or Passport Card?

☐ Yes ☐ No

If yes, complete the remaining items in #21.

Name as printed on your most recent passport book

Most recent passport book number

Most recent passport book issue date (mm/dd/yyyy)

Status of your most recent passport book: ☐ Submitting with application ☐ Stolen ☐ Lost ☐ In my possession (if expired)

Name as printed on your most recent passport card

Most recent passport card number

Most recent passport card issue date (mm/dd/yyyy)

Status of your most recent passport card: ☐ Submitting with application ☐ Stolen ☐ Lost ☐ In my possession (if expired)

PLEASE DO NOT WRITE BELOW THIS LINE - FOR ISSUING OFFICE ONLY

Name as it appears on citizenship evidence

☐ Birth Certificate SR CR City Filed:

Issued:

☐ Nat. / Citiz. Cert. USCIS USDC Date/Place Acquired:

A#

☐ Report of Birth Filed/Place:

☐ Passport C/R S/R Per PIERS #/DOI:

☐ Other:

☐ Attached:

☐ P/C of Citiz ☐ P/C of ID ☐ DS-71 ☐ DS-3053 ☐ DS-64 ☐ DS-5520 ☐ DS-5525 ☐ PAW ☐ NPIC ☐ IRL ☐ Citiz W/S



* DS 11 C 09 2013 2 *

Appendix E8

**WPATH Identity Recognition
Statement (Nov. 15, 2017)**



For Immediate Release

November 15, 2017

This statement replaces WPATH's Identity Recognition Statement of January 19, 2015.

WPATH Identity Recognition Statement

The World Professional Association for Transgender Health (WPATH) recognizes that, for optimal physical and mental health, persons must be able to freely express their gender identity, whether or not that identity conforms to the expectations of others. WPATH further recognizes the right of all people to identity documents consistent with their gender identity, including those documents which confer legal gender status. Such documents are essential to the ability of all people to enjoy rights and opportunities equal to those available to others; to access accommodation, education, employment, and health care; to travel; to navigate everyday transactions; and to enjoy safety. Transgender people, regardless of how they identify or appear, should enjoy the gender recognition all persons expect and deserve.

Medical and other barriers to gender recognition for transgender individuals may harm physical and mental health. WPATH opposes all medical requirements that act as barriers to those wishing to change legal sex or gender markers on documents. These include requirements for diagnosis, counseling or therapy, puberty blockers, hormones, any form of surgery (including that which involves sterilization), or any other requirements for any form of clinical treatment or letters from doctors. WPATH argues that marital and parental status should not be barriers to recognition of gender change, and opposes requirements for persons to undergo periods living in their affirmed gender, or for enforced waiting or 'cooling off' periods after applying for a change in documents. Further, court and judicial hearings can produce psychological, as well as financial and logistical barriers to legal gender change, and may also violate personal privacy rights or needs.

WPATH advocates that appropriate gender recognition should be available to transgender youth, including those who are under the age of majority, as well as to individuals who are incarcerated or institutionalized. WPATH recognizes that there is a spectrum of gender identities, and that choices of identity limited to Male or Female may be inadequate to reflect all gender identities. An option of X, NB (non-binary), or Other (as examples) should be available for individuals who so choose.

WPATH urges governments to eliminate barriers to gender recognition, and to institute transparent, affordable and otherwise accessible administrative procedures affirming self-determination, when gender markers on identity documents are considered necessary. These procedures should be based in law and protect privacy.

www.wpath.org

wpath@wpath.org

phone: 1+(847) 752-5328

fax: 1+(224) 633-2166

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Elgin, IL 60124

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Appendix F1

Motion to Seal

Coming Soon

Appendix F2
Petition for Decree of
Legal Gender Identity

Coming Soon

Appendix F3
Motion for Summary Judgment

Coming Soon

Appendix F4

Memorandum in Support of

Motion for Summary Judgment

Coming Soon

Appendix F5

**Proposed Decree of Legal Gender
Identity (Born in Maryland)**

Coming Soon

Appendix F6

**Proposed Decree of Legal Gender
Identity (Born out of state)**

Coming Soon

Appendix F7

Proposed Order Sealing Case Record

Coming Soon

Appendix F8

Provider Affidavit Template

Coming Soon

Appendix F9
Statement in Support of
Waiver of Prepaid Costs

Coming Soon

Appendix F10

Affidavit of Indigence

Coming Soon

Appendix G1

Motion to Seal

IN THE MATTER OF

[CURRENT LEGAL NAME]

FOR CHANGE OF NAME TO

[NAME-TO-BE]

AND DECREE OF LEGAL

GENDER IDENTITY

*

*

*

*

*

*

IN THE

CIRCUIT COURT

FOR [JURISDICTION]

Case No.: _____

* * * * *

LINE

TO THE CLERK OF THE COURT:

PLEASE TAKE NOTE that pursuant to Maryland Rule 16-913(a)(1), this filing contains Petitioner's Motion to Seal or Otherwise Limit Inspection of Case Record under Maryland Rule 16-912(a)(1)(A), along with documents that in undersigned counsel's judgment are confidential and subject to mandatory denial of public inspection pursuant to Maryland Rule 16-907(j)(1).

Upon the filing of this Motion, pursuant to Maryland Rule 16-912(c)(2), the Clerk of this Court "shall deny inspection of the case record for a period not to exceed five business days, including the day the motion is filed, in order to allow the court an opportunity to determine whether a temporary order should issue."

Respectfully submitted,

Date: [MONTH DAY, YEAR]

[ATTORNEY NAME], Esq.
CPF# [XXXXXXXXXX]
[FIRM OR ORG NAME]
[OFFICE ADDRESS]
[OFFICE ADDRESS]
t: [OFFICE PHONE]/ f: [FAX #]
e: [ATTORNEY EMAIL]
Attorney for Petitioner

CERTIFICATE OF SERVICE

I hereby certify that Petitioner is the only party to this action, and therefore that no other party has been served with the foregoing Line.

[ATTORNEY NAME], Esq.

IN THE MATTER OF	*	IN THE
[CURRENT LEGAL NAME]	*	CIRCUIT COURT
FOR CHANGE OF NAME TO	*	FOR [JURISDICTION]
[NAME-TO-BE]	*	
AND DECREE OF LEGAL	*	Case No.: _____
GENDER IDENTITY	*	
* * * * * *		* * * * *

MOTION TO SEAL OR OTHERWISE LIMIT INSPECTION OF CASE RECORD

NOW COMES Petitioner, **[CURRENT LEGAL NAME]**, by and through **[HIS/HER/THEIR]** attorney, **[ATTORNEY'S NAME]**, Esq., and pursuant to Maryland Rules 16-907(j)(1) and 16-912(a)(1)(A), respectfully requests this Court to finally seal, in its entirety, or limit inspection of all records in the above-captioned matter, including search results on Maryland Judiciary Case Search.

In support of this Motion, Petitioner submits as follows:

1. Petitioner files this action with the intent of changing **[HIS/HER/THEIR]** name and receiving judicial recognition of **[HIS/HER/THEIR]** gender as **[MALE/FEMALE/NONBINARY]** for all legal purposes.
2. Petitioner is **[A TRANSGENDER MAN/A TRANSGENDER WOMAN/NONBINARY]**.
3. As part of **[HIS/HER/THEIR]** transition from **[HIS/HER/THEIR]** sex assigned at birth, Petitioner has undergone appropriate clinical treatment for the purpose of sex transition, attested to by **[HIS/HER/THEIR]** provider, **[PROVIDER NAME, CREDENTIALS]**. *See* Affidavit of **[PROVIDER NAME, CREDENTIALS]**, Exhibit to Verified Petition.

4. Under Maryland Rule 16-907(j)(1), a custodian shall deny inspection of a case record “that (A) consists of a medical or psychological report or record from a hospital, physician, psychologist, or other professional health care provider, and (B) contains medical or psychological information about an individual.” **[PROVIDER’S NAME]**’s affidavit is a medical report subject to mandatory denial of inspection under that rule.

5. In addition, the fact of Petitioner’s medical treatment, as attested by **[HIS/HER/THEIR]** health care provider, forms the basis of Count II of the Petition. *See* Verified Petition for Change of Name and Decree of Legal Gender Identity; *See* Memorandum in Support of Petitioner’s Motion for Summary Judgment.

6. Petitioner seeks a court order sealing the case record pertaining to this action in its entirety to protect **[HIS/HER/THEIR]** identity as **[A TRANSGENDER MAN/A TRANSGENDER WOMAN/NONBINARY]** and to protect **[HIS/HER/THEIR]** private health records from public access.

7. **[*** If appropriate ***]** Moreover, Petitioner’s gender identity and transgender status is part and parcel of this case, including Count I (in which Petitioner seeks to change **[HIS/HER/THEIR]** name from **[“CURRENT LEGAL NAME”]** a traditionally **[MASCULINE/FEMININE]** name, to **[“NAME-TO-BE]** a traditionally **[MASCULINE/FEMININE]** name) and Count II (in which Petitioner seeks judicial recognition of **[HIS/HER/THEIR]** gender as **[MALE/FEMALE/NONBINARY]**). Petitioner’s transgender status would be obvious to anyone reviewing the case file or docket entries made publicly available on Maryland Judiciary Case Search.

8. As a transgender person, Petitioner is at significantly increased risk of discrimination in employment and housing, and even physical violence if **[HIS/HER/THEIR]** transgender

status is a subject of public disclosure. According to the 2015 U.S. Transgender Survey, the largest and most comprehensive survey of the United States transgender community to date, over one-half (53%) of respondents who held a job in the past year indicated that they had to hide their transgender status at work to avoid discrimination in the past year, and 30% reported being fired, harassed, or experiencing other mistreatment at work in the past year due to their transgender status.¹ Twenty-three percent (23%) of all respondents reported that they had experienced housing discrimination or homelessness in the past year because of their transgender status.² Large percentages of transgender people report being subjected to harassment and even physical assault when their transgender status is made known at work, in educational settings, and in places of public accommodation.³

9. If the record in this case is not sealed and remains publicly available, **[HE/SHE/THEY]** will be at increased risk for discrimination in employment. Employers may use the Maryland Judiciary Case Search platform to conduct searches of prospective employees, since it offers a no-cost option for obtaining information that may be relevant to a

¹ James, S. E., *et al.*, THE REPORT OF THE 2015 U.S. TRANSGENDER SURVEY at 154-55 (National Center for Transgender Equality 2016), *available at* <https://transequality.org/sites/default/files/docs/usts/USTS-Full-Report-Dec17.pdf>.

² *Id.* at 180.

³ *Id.* at 153 (15% of respondents who held a job in past year reported being verbally harassed, physically attacked, and/or sexually assaulted at work in the past year because of their transgender status); 136 (24% of respondents who attended college or vocational school reported being verbally, physically, or sexually harassed at school because of their transgender status when their gender identity was known to classmates, professors, or staff); 213 (31% of respondents who visited a place of public accommodation in the past year where staff or employees thought or knew they were transgender experienced at least one type of negative experience due to their gender identity, including being denied equal treatment or service (14%), verbally harassed (24%), and/or physically attacked (2%)); 89-90 (as a result of showing identification with a name or gender that did not match their gender presentation, 32% reported a negative experience, including verbal harassment (25%), denial of service (16%), and assault (2%)).

background check. In Maryland, 25% of transgender respondents who held or applied for a job reported being fired, denied a promotion, or not being hired based on their gender identity or expression within the prior year.⁴ Additionally, 18% of transgender Marylanders who had a job in the prior year were verbally harassed at work, and they also reported being physically attacked (1%) and sexually assaulted (3%) because of their gender identity or expression.⁵ The availability of Petitioner's name change information exposes **[HIM/HER/THEM]** to discrimination in hiring or during **[HIS/HER/THEIR]** employment. Further, Petitioner is at risk of co-workers learning about **[HIS/HER/THEIR]** transgender status as a result of a simple internet search, which may subject **[HIM/HER/THEM]** to harassment at work.

10. In recognition of the unfortunate reality of bias and discrimination against transgender people in the workplace, Maryland has made employment discrimination on the basis of gender identity unlawful, *see* Md. Code, State Gov't Art., § 20-606, and has made gender identity a protected classification under the State Hate Crimes Law, *see* Md. Code, Crim. Law Art., § 10-304 (prohibiting commission of crime against a person because of the person's "sexual orientation"); *see also id.* § 10-301(c) (including "gender-related identity" within the statutory definition of "sexual orientation"). Despite the existence of these laws, however, transgender Marylanders such as Petitioner remain subject to invidious discrimination.

⁴ James S. E., *et al.*, THE 2015 U.S. TRANSGENDER SURVEY, *Maryland State Report* 1, 1 (Nat'l Ctr. For Transgender Equal. 2017) *available at* <https://transequality.org/sites/default/files/USTS%20MD%20State%20Report.pdf>.

⁵ *Id.*

11. Further, people known or suspected to be transgender are more often the targets of hate crimes than cisgender individuals, including online violence. Transgender individuals are 2.8 times more likely to be the targets of violence online or over the phone than cisgender members of the LGBTQ community.⁶

12. ***** If appropriate ***** In addition to concerns about the general increased risk of exposure to discrimination, harassment, and violence based on **[HIS/HER/THEIR]** identity as a transgender person outlined above, Petitioner has particularized concerns based on **[HIS/HER/THEIR]** prior experiences. **[PARTICULARIZED CIRCUMSTANCES, e.g., history of discrimination/violence, family circumstances, distinctiveness of former name, etc.]**

13. If the record in this case remains unsealed and publicly available via Maryland Judiciary Case Search, a permanent, easily accessible official record of Petitioner's transgender status will continue to be readily available to anyone with access to the internet. The availability of this information exposes Petitioner to the threat of discrimination, harassment, and violence.

14. There is no other party to this matter, therefore an adversary hearing as it pertains to Petitioner's Motion to Seal is unnecessary. Furthermore, Petitioner waives **[HIS/HER/THEIR]** opportunity for a full adversary hearing regarding this Motion to Seal, as permitted by Maryland Rule 16-912(d)(6) (providing that a final order on sealing shall be entered "within 30 days after a hearing was held *or waived*") (emphasis added).

⁶ Emily Waters, *et al.*, LESBIAN, GAY, BISEXUAL, TRANSGENDER, QUEER, AND HIV-AFFECTED HATE VIOLENCE IN 2016 12 (National Coalition of Anti-Violence Programs 2017) available at http://avp.org/wp-content/uploads/2017/06/NCAVP_2016HateViolence_REPORT.pdf.

15. If the Court does not deem that a sufficient showing has been made to seal this matter in its entirety from its initiation, Petitioner respectfully requests that the Court enter an order directing that the case be sealed upon expiration of the notice period for the requested change of name, and that until the notice period expires, the case be shielded from public electronic access only (i.e. via Maryland Judiciary Case Search). In the proposed order that accompanies this Motion, an optional paragraph has been included to effectuate this alternative ruling if the Court views it as appropriate.

WHEREFORE, Petitioner respectfully requests this Honorable Court to:

- (a) Grant Petitioner's Motion to Seal or Otherwise Limit Inspection of Case Record; and
- (b) Order the Clerk of this Court to shield from public inspection all records in the above-captioned matter, including search results on the Maryland Judiciary Case Search; and
- (c) Authorize Petitioner and undersigned counsel's to access the case file at any time after this Court orders it sealed, including after final disposition and case closure; and
- (d) Grant such other and further relief as deemed appropriate by this Court.

Respectfully submitted,

Date: [MONTH DAY, YEAR]

[ATTORNEY NAME], Esq.
CPF# [XXXXXXXXXX]
[FIRM OR ORG NAME]
[OFFICE ADDRESS]
[OFFICE ADDRESS]
t: [PHONE #]/ f: [FAX #]
e: [ATTORNEY EMAIL]
Attorney for Petitioner

CERTIFICATE OF SERVICE

I hereby certify that Petitioner is the only party to this action, and therefore that no other party has been served with the foregoing motion.

[ATTORNEY NAME], Esq.

Appendix G2

**Petition for Change of Name and
Decree of Legal Gender Identity**

IN THE MATTER OF	*	IN THE
[CURRENT LEGAL NAME]	*	CIRCUIT COURT
[CLIENT ADDRESS]	*	
[CLIENT CITY, STATE, ZIP]	*	FOR [JURISDICTION]
FOR CHANGE OF NAME TO	*	
[NAME-TO-BE]	*	Case No.: _____
AND DECREE OF LEGAL	*	

GENDER IDENTITY

* * * * *

**VERIFIED PETITION FOR CHANGE OF NAME AND DECREE OF LEGAL
GENDER IDENTITY**

NOW COMES Petitioner, [CURRENT LEGAL NAME], by and through
[HIS/HER/THEIR]¹ attorney, [ATTORNEY NAME], Esq., and pursuant to Maryland
Rule 15-901 and the equitable authority of the Court recognized in *In re Heilig*, 372 Md. 692
(2003), respectfully petitions this Honorable Court for a change of name, recognizing
[HIS/HER/THEIR] name of common use; and a decree of legal gender identity, recognizing
[HIS/HER/THEIR] gender and sex designation as [MALE/FEMALE/NONBINARY] for
all legal purposes, and in support states the following:

1. Petitioner is domiciled in [COUNTY or BALTIMORE CITY], residing at [#
STREET, CITY, STATE ZIP CODE].
2. Petitioner was born on [MONTH DAY, YEAR] in [CITY, STATE]. See Exhibit 1,
[*EITHER*] Certificate of Live Birth [*OR*] [TITLE OF DOCUMENT
ESTABLISHING CURRENT NAME].

¹ Petitioner uses [HE/HIM/HIS, SHE/HER/HERS, THEY/THEM/THEIRS, ETC.] pronouns, which will be used for Petitioner throughout this Petition and supported Motions and Memoranda.

3. Petitioner was given the name **[CURRENT LEGAL NAME]** at birth. *See* Exhibit 1.
4. Petitioner was assigned the sex designation of **[FEMALE/MALE]** at birth. *See* Exhibit 1.
5. Petitioner lives and identifies as **[MALE/FEMALE/NONBINARY]**, and seeks legal recognition of **[HIS/HER/THEIR]** gender identity reflecting this transition.
6. Petitioner has adopted **[NAME-TO-BE]** as **[HIS/HER/THEIR]** name of common use and has used that name consistently and nonfraudulently.

I. COUNT I: NAME CHANGE

MARYLAND RULE § 15-901

7. Petitioner incorporates by reference and re-alleges the preceding paragraphs as though fully set forth herein.
8. Petitioner brings this cause of action for the purpose of obtaining a change of name.
9. Petitioner now seeks to change **[HIS/HER/THEIR]** name to **[NAME-TO-BE]**, as it is **[HIS/HER/THEIR]** name of common use.
10. Petitioner does not request this change of name for the purpose of concealment or fraud.
11. Petitioner is not and has never been required to register as a sex offender.
12. ***** Alternatively ***** Petitioner has not previously been known by any names other than the names discussed above. ***** Or ***** Petitioner has previously been known by the following names: **[DETAIL NAMES AND CIRCUMSTANCES OF CHANGE, E.G. MARRIAGE, PRIOR COURT ORDER, ETC.]**.

II. COUNT II: DECREE OF LEGAL GENDER IDENTITY

IN RE HEILIG, 372 MD. 692 (2003)

MARYLAND CODE HEALTH-GENERAL SECTION 4-211

13. Petitioner incorporates by reference and re-alleges the preceding paragraphs as though fully set forth herein.

14. Under the care of a licensed health practitioner, Petitioner has undergone appropriate treatment for the purpose of sex transition. *See* Exhibit [#], Affidavit of **[PROVIDER NAME, CREDENTIALS]**.

15. As such, applying current relevant criteria for the determination of gender, Petitioner has undergone a permanent change from **[FEMALE/MALE]** to **[MALE/FEMALE/NONBINARY]**.

WHEREFORE, Petitioner respectfully requests that this Honorable Court enter judgment in **[HIS/HER/THEIR]** favor and:

- a) Declare Petitioner's name as **[NAME-TO-BE]**; and
- b) Enter a Decree of Legal Gender Identity of the Petitioner, declaring that the Petitioner's gender for all legal purposes is **[MALE/FEMALE/NONBINARY]**; and
- c) Recognize that Petitioner's sex designation has been changed from **[MALE/FEMALE]** to **[MALE/FEMALE/NONBINARY]** as a result of appropriate treatment that is in accordance with the requirements set forth by Maryland Code, Health General §4-211, as amended by 2015 Md. Laws Ch. 484 and Ch. 485. and
- d) Grant such other and further relief as this Court deems just and proper.

Respectfully submitted,

Date: **[MONTH DAY, YEAR]**

[ATTORNEY NAME], Esq.
[OFFICE TITLE]

[OFFICE ADDRESS]

[OFFICE ADDRESS]

t: **[PHONE #]/ f: [FAX #]**

e: **[EMAIL ADDRESS]**

Attorney for Petitioner

OATH

I solemnly declare and affirm under the penalties of perjury and upon personal knowledge that the factual contents of the above Petition are true.

Date

**[CLIENT'S SIGNATURE –
CURRENT LEGAL NAME]**

CERTIFICATE OF SERVICE

I hereby certify that Petitioner is the only party to this action, and therefore that no other party has been served with the foregoing Petition for Change of Name and Decree of Legal Gender Identity.

[ATTORNEY NAME], Esq.

Appendix G3
Motion for Summary Judgment

* IN THE

* CIRCUIT COURT

* FOR [JURISDICTION]

*

* Case No.: _____

*

**MOTION FOR SUMMARY JUDGMENT AS TO COUNT II OF THE PETITION,
DECLARATION OF LEGAL GENDER IDENTITY**

WHEREFORE, Petitioner respectfully requests that this Court:

- Respectfully submitted,

[ATTORNEY NAME]
[CLIENT PROT FUND #]
[OFFICE NAME]
[OFFICE ADDRESS]
[OFFICE ADDRESS]
t:**[PHONE #]/f:[FAX #]**
e:**[EMAIL ADDRESS]**
Attorney for Petitioner

CERTIFICATE OF SERVICE

I hereby certify that Petitioner is the only party to this action and therefore that no other party has been served with the foregoing Motion for Summary Judgment.

[ATTORNEY NAME], Esq.

Appendix G4

Memorandum in Support of

Motion for Summary Judgment

IN THE MATTER OF	*	IN THE
[CURRENT LEGAL NAME]	*	CIRCUIT COURT
FOR CHANGE OF NAME TO	*	FOR [JURISDICTION]
[NAME-TO-BE]	*	
AND DECREE OF LEGAL	*	Case No.: _____
GENDER IDENTITY	*	
* * *		* * *
* * *		* * *

**MEMORANDUM IN SUPPORT OF PETITIONER’S
MOTION FOR SUMMARY JUDGMENT FOR
DECLARATION OF LEGAL GENDER IDENTITY**

I. Factual Background

Petitioner was born in [CITY, STATE] on [MONTH DAY, YEAR]. At birth, Petitioner was assigned the sex designation of [FEMALE/MALE] which is the gender shown on [HIS/HER/THEIR] [STATE OF BIRTH] birth certificate.¹ See Exhibit 1 to Verified Petition for Decree of Legal Gender Identity (“Petition”), [TITLE OF THE BIRTH CERTIFICATE]. However, Petitioner lives and identifies as [MALE/FEMALE/NONBINARY]. Petitioner has undergone appropriate treatment for the purpose of sex transition. See Exhibit [X] to Petition, Affidavit of [PROVIDER NAME, CREDENTIALS]. Petitioner seeks a decree from this Court ordering that [HIS/HER/THEIR] gender is [MALE/FEMALE/NONBINARY] for all legal purposes.

¹ Petitioner uses [HE/HIM/HIS, SHE/HER/HERS, THEY/THEM/THEIRS, ETC.] pronouns, which will be used for Petitioner throughout this Memorandum and related pleadings.

II. Equitable Jurisdiction

This Court has jurisdiction to rule on a petition for decree of legal gender identity filed by a resident of Maryland regardless of their place of birth, pursuant to *In re Heilig*, 372 Md. 692 (2003). In *Heilig*, the Court of Appeals held that the Circuit Court of Montgomery County had equitable jurisdiction to hear the petition of a Pennsylvania-born transgender woman living in Maryland for a court order changing her legal gender identity from male to female. This power derived not from specific statutory language, but from the circuit court's pre-existing equity jurisdiction. According to the Court of Appeals, "[t]he Circuit Court has Constitutionally-based, and statutorily recognized, equitable jurisdiction to consider and rule upon [a] petition [to declare change in gender]."² The Court added, "The jurisdiction of Maryland courts is not limited by the birthplace of the parties seeking relief,"³ and that "the [circuit] court had jurisdiction to consider and rule upon the petition."⁴ This Petitioner, a Maryland resident, seeks the same relief granted in *Heilig*.

III. Medical Standard

The *Heilig* Court did not establish a bright line standard that must be met for a court to legally recognize an individual's gender identity. Rather, the Court acknowledged that this was "an evolving area," in which the standard applied by the courts should follow the medical standard of care as established through admissible evidence.⁵ Therefore, the Court directed a petitioner seeking a legal change of gender identity "to present sufficient medical

² *Heilig*, 372 Md. at 712.

³ *Id.*

⁴ *Id.* at 719-21.

⁵ *Id.* at 723

evidence of both [1] the *relevant criteria for determining gender* and [2] of the fact that, *applying that criteria*, [s]he has completed a permanent and irreversible change”⁶

The *Heilig* Court identified various sources a circuit court may reference when making a determination about legal gender identity. The Court wrote, “We have examined the literature available to us and recounted some of the evidence that other courts have found relevant...”⁷ The salient criteria that the Court highlighted as potentially determinative of gender identity include (1) federal agency policies governing the issuance of identification; (2) the Standards of Care issued by the leading international association of health professionals treating transgender patients, then called the Harry Benjamin International Gender Dysphoria Association, and now known as the World Professional Association for Transgender Health (WPATH); and (3) the statutory standard for revision of gender designations on Maryland birth certificates in effect at the time *Heilig* was decided.

These guiding standards, identified by the *Heilig* Court, have continued to evolve since the Court of Appeals reviewed them in *Heilig* over ten years ago. For example, while many of the sources identified by the *Heilig* Court looked at that time to surgical intervention as a threshold marker of gender change, virtually all of these sources now recognize that a gender transition may be accomplished without surgical intervention. Thus, an evaluation of the change in each of the guiding sources identified in *Heilig* is instructive.

A. Federal Agency Policies Governing the Issuance of Identification

⁶ *Id.* at 723 (emphasis and alterations added).

⁷ *Id.*

One set of sources of guidance identified by the *Heilig* Court was the policies of federal agencies around updating records of gender.⁸ The federal agency policies cited by the Court include policies for changing a gender marker with the Social Security Administration (“SSA”), federal regulations governing how inmates are housed in penitentiary environments, and U.S. Passport Office guidelines for altering the sex designation on a passport. Each of these agencies has changed its policy and procedure subsequent to *Heilig* to no longer require surgical gender reassignment as a one-size-fits-all measure. Instead, these agencies’ policies now focus on individualized assessment, typically by the individual’s own medical provider.

The SSA policy cited by the *Heilig* Court in 2003 required that the agency would reflect a gender marker change only upon submission of evidence, “‘showing the sex change surgery has been completed.’”⁹ The SSA’s policy has changed since *Heilig* was decided. Under the current policy, effective as of September 30, 2013, the SSA will amend the gender marker contained in one’s Social Security data file upon receipt of “medical certification of *appropriate clinical treatment for gender transition* in the form of an original signed statement from a licensed physician.”¹⁰ The policy explicitly states that “[s]urgery is no longer required to change the sex field,”¹¹ and supplies a sample letter guiding providers to attest to administering or observing the applicant’s “appropriate clinical treatment for gender

⁸ *Heilig*, 372 Md. at 721-722.

⁹ *Heilig*, 372 Md. at 721 (quoting SSA Program Operations Manual System, RM 00203.210 § C at 4).

¹⁰ SSA Program Operations Manual System, RM 10212.200, § B.2 (2013) (emphasis added), *available at* <https://secure.ssa.gov/apps10/poms.nsf/lnx/0110212200> (last visited 4/4/19).

¹¹ *Id.* at § B.2.

transition to the new gender,” without requiring further detail.¹² Thus, the SSA standard to amend a gender marker no longer requires completion of surgical treatment.

Similarly, the U.S. State Department has also updated its policy to no longer require surgery before changing the gender marker on one’s United States passport. In *Heilig*, the Court described the State Department’s then-current policy: “the State Department will issue a temporary passport with a change of gender upon a certified letter from a physician stating that the applicant is about to undergo sex reassignment surgery and will issue a regular new passport showing such a change upon a certified letter stating that the applicant has undergone such surgery.”¹³ Since June 10, 2010, however, the State Department has no longer required gender reassignment surgery as a precursor to changing one’s gender marker as it appears on their U.S. Passport. Under the new State Department policy:

A full validity U.S. passport will be issued reflecting a new gender upon presentation of a signed original statement, on office letterhead, from a licensed physician who has treated the applicant for his/her gender-related care or reviewed and evaluated the gender-related medical history of the applicant [with]... [l]anguage stating the applicant has had appropriate clinical treatment for gender transition to the new gender of either male or female.¹⁴

In a press release describing the change of policy, the State Department confirmed:

“[W]hen a passport applicant presents a certification from an attending medical physician that the applicant has undergone appropriate clinical treatment for gender transition, the passport will reflect the new gender. The guidelines include detailed information about what information the

¹² *Id.* at § C.

¹³ *Heilig*, 372 Md. at 722 (citing Julie A. Greenberg, *Defining Male and Female: Intersexuality and the Collision Between Law and Biology*, 41 ARIZ. L. REV. 265, 275-76 (1999), as the source of a description of the State Department policy as “reported, although there seems to be no official documentation”).

¹⁴ Consular Affairs, U.S. Dep’t State, Foreign Affairs Manual vol. 8, FAM 403.3-2(B), Medical Certification for Gender Change/Transition at sec. (a), (d)(5) (2018) *available at* https://fam.state.gov/fam/08fam/08fam040303.html#M403_3_8 (last visited 12/24/19).

certification must include... No additional medical records are required. *Sexual reassignment surgery is no longer a prerequisite for passport issuance.*”¹⁵

When *Heilig* was decided in 2003, housing determinations for transgender people who were incarcerated were made solely on the basis of whether the inmate had undergone genital surgery. The *Heilig* Court wrote: “In the Federal prison system, pre-operative transsexuals are housed with inmates of their birth gender, but post-operative transsexuals are housed with inmates of their acquired gender.”¹⁶ Later that year, however, Congress unanimously passed the Prison Rape Elimination Act of 2003 (“PREA”),¹⁷ in which it directed the Justice Department to issue regulations adopting “national standards for the detection, prevention, reduction, and punishment of prison rape.”¹⁸ The Justice Department regulations promulgated pursuant to the PREA include specific protections for transgender inmates. Pursuant to 28 CFR § 115.15(e), “...facilit[ies] shall not search or physically examine a transgender or intersex inmate for the sole purpose of determining the inmate’s genital status.”¹⁹ The standards further mandate that transgender inmates must not be placed

¹⁵ U.S. Dept. of State, Office of the Spokesman, Media Note, “New Policy on Gender Change in Passports Announced” (June 9, 2010) (emphasis added), *available at* <https://2009-2017.state.gov/r/pa/prs/ps/2010/06/142922.htm> (last visited 12/26/19).

¹⁶ *Heilig*, 372 Md. at 722 (citing *Farmer v. Haas*, 990 F.2d 319, 320 (7th Cir. 1993)). The term “transsexual,” used extensively in *Heilig*, is a largely deprecated synonym for “transgender.” It has been disfavored by the transgender community in recent years because of its historical connotations of surgery. See GLAAD, “GLAAD Media Reference Guide – Transgender,” *available at* <https://www.glaad.org/reference/transgender> (“Unlike *transgender*, *transsexual* is not an umbrella term. Many transgender people do not identify as transsexual and prefer the word *transgender*.”) (last visited 12/26/19).

¹⁷ 42 U.S.C. §§ 15601 *et seq.*

¹⁸ *Id.* § 15601(a)(1).

¹⁹ 28 C.F.R. § 115.15(e).

in “dedicated facilities, units, or wings solely on the basis of such identification or status,”²⁰ and require correctional facilities to make an individualized assessment of each transgender inmate to determine whether to house them in a male or female facility, placing special weight on the transgender inmate’s own “views with respect to his or her own safety.”²¹ Taken together, these regulations effectively prohibit correctional institutions from assigning inmates to male or female housing based on a one-size-fits-all criterion of surgical status. The regulations promulgated in response to the PREA are another example of the shift in focus from rigid surgical standards to individualized assessment including non-surgical criteria.

B. World Professional Association for Transgender Health Standards of Care

The *Heilig* court also cited medical evidence regarding the then-current understanding of “transsexualism” and gender dysphoria, including the Standards of Care promulgated by the Harry Benjamin International Gender Dysphoria Association,²² now known as the World Professional Association for Transgender Health (“WPATH”). WPATH’s Standards of Care embody the best practices in the care of transgender people and are globally recognized by the medical community.²³ The WPATH Standards of Care are based on the “best available science and expert professional consensus” and are designed to provide “clinical guidance for professionals to assist transsexual, transgender, and gender non-conforming people ... to

²⁰ 28 C.F.R. § 115.42(g).

²¹ 28 C.F.R. § 115.42(e).

²² See *Heilig*, 372 Md. at 707 (citing the 1998 5th edition of the STANDARDS OF CARE).

²³ Eli Coleman, et. al., *Standards of Care for the Health of Transsexual, Transgender, and Gender-Nonconforming People*, (WPATH, 7th ed. 2012), available at https://www.wpath.org/media/cms/Documents/SOC%20v7/Standards%20of%20Care_V7%20Full%20Book_English.pdf (last visited 12/24/19) (“WPATH Standards of Care”).

maximize their overall health.”²⁴ The American Medical Association recognizes the WPATH Standards of Care as the authoritative source of guidance in the medical care of transgender people.²⁵

Version Seven of the WPATH Standards of Care, the most recent version, was published in 2012 and specifically notes marked development from previous versions, including the version cited by the *Heilig* Court.²⁶ Version Seven of the WPATH Standards of Care discusses these advances, noting that treatment for gender dysphoria²⁷ has developed to become particularly individualized:

As the field matured, health professionals recognized that while many individuals need both hormone therapy and surgery to alleviate their gender dysphoria, others need only one of these treatment options and some need neither (Bockting & Goldberg, 2006; Bockting, 2008; Lev, 2004). Often with the help of psychotherapy, some individuals integrate their trans- or cross-gender feelings into the gender role they were assigned at birth and do not feel the need to feminize or masculinize their body. For others, changes in gender role and expression are sufficient to alleviate gender dysphoria. Some patients may need

²⁴ *Id.* at 1.

²⁵ See AM. MED. ASS’N H.D., RES. 122 (A-08): REMOVING FINANCIAL BARRIERS TO CARE FOR TRANSGENDER PATIENTS (June 2008), available at http://www.tgender.net/taw/ama_resolutions.pdf (last visited 4/4/19) (“Whereas the World Professional Association for Transgender Health, Inc. is the leading international, interdisciplinary professional organization devoted to understanding and treatment of gender identity disorders and has established internationally accepted Standards of Care...” (footnotes omitted)).

²⁶ See WPATH Standards of Care, *supra*, at 1 n.2 (“Changes in this version are based upon significant cultural shifts, advances in clinical knowledge, and appreciation of the many health care issues that can arise for transsexual, transgender, and gender-nonconforming people beyond hormone therapy and surgery.”).

²⁷ See *id.* at 96 (“Gender dysphoria: Distress that is caused by a discrepancy between a person’s gender identity (and the associated gender role and/or primary and secondary sex characteristics”). Gender dysphoria is a recognized psychiatric diagnosis in the *Diagnostic and Statistical Manual of Mental Disorders* (5th ed. 2013) (“DSM-V”), published by the American Psychiatric Association, and is the clinical diagnosis associated with transgender status. In previous editions of the DSM, the diagnosis was referred to as “gender identity disorder” or “GID.”

hormones, a possible change in gender role, but not surgery; other may need a change in gender role along with surgery but not hormones. In other words treatment for gender dysphoria has become more individualized.²⁸

The WPATH Standards of Care recommend a variety of options for therapeutic approaches to treat gender dysphoria, including psychological and medical treatment, as well as social support and changes in gender expression.²⁹ Indeed, in addition or as an alternative to surgical treatments, the Standards of Care recommend “[c]hanges in name and gender marker on identity documents” as effective in helping to alleviate gender dysphoria.³⁰ Additionally, the WPATH Standards of Care observe that, while surgery is “essential and medically necessary to alleviate their gender dysphoria” for many transgender people, many others “find comfort with their gender identity, role, and expression without surgery.”³¹

C. Maryland Code, Health-General § 4-211(b)(2)(ii)

Finally, the *Heilig* Court considered Maryland’s statutory standard for updating the gender marker on the birth certificate of a person born in Maryland. When *Heilig* was decided, former H.-G. § 4-214(b)(5) permitted amending the sex designation on a Maryland birth certificate only where “the sex of an individual born in this State has been changed by surgical procedure.” Gender reassignment surgery is no longer required to effect a change of sex designation on a Marylander’s birth certificate. In 2015, legislation was adopted eliminating the surgical requirement.³² Now, H.-G. § 4-211(b)(2)(ii) requires the Maryland Department of Health and Mental Hygiene, Vital Records Division to change the gender

²⁸ *Id.* at 8-9.

²⁹ *Id.* at 9-10.

³⁰ *Id.* at 10.

³¹ *Id.* at 54.

³² *See* Md. Code Health-Gen §4-211(b)(2)(i)(1).

marker on a Maryland native's birth certificate upon receipt of a healthcare provider's determination that "[t]he individual has undergone surgical, *hormonal, or other treatment as appropriate for the individual, based on generally accepted medical standards*; or...[t]he individual has an intersex condition and, in the professional opinion of the licensed health care practitioner, based on generally accepted medical standards, the individual's sex designation should be changed accordingly."³³ This new statutory standard is another criterion this Court may consult to make a determination about a petitioner's sex designation.³⁴ This statutory shift reflects the legislative judgment of Maryland's General Assembly that a legally cognizable change in gender does not hinge on whether one undergoes surgery.

Lest there be any doubt, in 2019, the state adopted legislation allowing all residents to self-attest their gender when applying for a driver's license or state ID card from the Motor Vehicle Administration ("MVA").

The Administration may not:

- (1) Require an applicant for a license, an identification card, or a moped operator's permit to provide proof of the applicant's sex; or
- (2) Deny an application for a license, an identification card, or a moped operator's permit because the sex selected by the applicant does not match the sex indicated on another document associated with the applicant.³⁵

Under this new legislation, transgender Marylanders are no longer required to go through medical or legal gatekeepers of any kind in order to update the gender on their driver's

³³ Md. Code Health-Gen § 4-211(b)(2)(ii) (emphasis added).

³⁴ In addition, at least nine other states and the District of Columbia no longer require surgery to effect a change in legal gender identity. These states include Alaska, Arizona, California, Connecticut, Iowa, Minnesota, New York, Oregon, and Vermont.

³⁵ Md. Code Transp. § 12-305(c).

license or state ID. This same legislation explicitly recognized genders other than Male and Female for the first time in Maryland law.³⁶

[* IF APPLICABLE *] While H.-G. § 4-211(b)(2)(ii) and Transp. § 12-305(c) apply by their terms only to birth certificates maintained by the Maryland Department of Health for persons born in Maryland and to driver’s licenses and other ID cards and permits issued by the MVA, respectively, these statutes nonetheless present this Court with persuasive indicators of the appropriate standard to apply when considering whether to order a change of legal gender for a person born outside of Maryland. In the *Heilig* case itself, as noted, the Court of Appeals looked to the statutory standard for persons born in Maryland as a guidepost for the standard to apply for persons born out of state.

IV. Petitioner’s Appropriate Treatment for Purpose of Sex Transition

Petitioner requests relief from this Court, as **[HE/SHE/THEY]** **[HAS/HAVE]** received appropriate treatment for the purpose of sex transition. In support of this petition, Petitioner includes sworn testimony that **[HIS/HER/THEIR]** sex designation is “other than what is recorded on [their] birth certificate.”³⁷ Petitioner was born on **[MONTH DAY, YEAR]**, as **[NAME AT BIRTH]**, and was designated **[MALE OR FEMALE]** at birth. *See* Exhibit 1 to Verified Petition for Change of Name and Decree of Legal Gender Identity, Birth Certificate. However, Petitioner, who has adopted **[NAME OF COMMON USE]** as **[HIS/HER/THEIR]** name of common use, is **[A TRANSGENDER MAN/A TRANSGENDER WOMAN/NONBINARY]**, and as such, seeks a name change and decree

³⁶ Md. Code Transp. § 12-305(a)-(b) (allowing applicants to designate their sex as “Unspecified or other”, designated with an “X” on the driver’s license or ID card).

³⁷ *Heilig*, 372 Md. at 723.

of legal gender identity in this Court. *See* Petition for Change of Name and Decree of Legal Gender Identity.

In an affidavit attached as an exhibit to this petition, Petitioner’s health care practitioner, **[PROVIDER NAME, CREDENTIALS]** attests that Petitioner has received appropriate treatment for the purpose of sex transition. *See* Exhibit **[X]**, Affidavit of **[PROVIDER NAME, CREDENTIALS]**. In light of this showing, Petitioner maintains that **[HIS/HER/THEIR]** current sex designation does not correspond with **[HIS/HER/THEIR]** identity, and seeks this Court’s decree that **[HIS/HER/THEIR]** gender is **[MALE/FEMALE/NONBINARY]**.

V. Conclusion

The *Heilig* Court determined that a court’s order granting of a legal change of gender identity must “be based on admissible evidence of medical fact—the factors that actually should be considered in determining gender and what the person’s gender status is when viewed in the context of those factors.”³⁸ Petitioner submits that the factors determining gender are an evolving science, but that the current guidelines of state and federal agencies authorized to issue evidence of identification as well as the most recent version of the Standards of Care promulgated by the World Professional Association for Transgender Health (WPATH) and the recently revised statutory standards for revision of gender designations on Maryland birth certificates and driver’s licenses offer instructive criteria for determining a person’s gender for legal purposes.

³⁸ *Id.* at 722-23.

The *Heilig* Court observed that “(1) gender itself is a fact that may be established by medical and other evidence, (2) it may be, or possibly may become, other than what is recorded on their birth certificate, and (3) a person has a deep personal, social, and economic interest in having the official designation of his or her gender match what, in fact, it always was or possibly has become.”³⁹ Indeed, Petitioner has a strong personal interest in making **[HIS/HER/THEIR]** legal gender consistent with **[HIS/HER/THEIR]** deeply felt and experienced gender identity. This Petition contains substantial evidence that speaks to Petitioner’s true gender identity.

For all of the foregoing reasons, and because there is no opposing party in this case, there is no genuine dispute as to any material fact, and Petitioner is not requesting a hearing, Petitioner respectfully requests that the Court grant Petitioner’s Motion for Summary Judgment as to Count II of the Petition. A proposed order is attached for the Court’s consideration.

Respectfully submitted,

Date: **[MONTH DAY, YEAR]**

[ATTORNEY NAME], Esq.
[OFFICE NAME]
[OFFICE ADDRESS]
[OFFICE ADDRESS]
t:[PHONE #] / f:[FAX #]
e:[EMAIL ADDRESS]
Attorney for Petitioner

³⁹ *Id.* at 710.

Appendix G5

Motion for Waiver of Publication

IN THE MATTER OF	*	IN THE
[CURRENT LEGAL NAME]	*	CIRCUIT COURT
FOR CHANGE OF NAME TO	*	FOR [JURISDICTION]
[NAME-TO-BE]	*	
AND DECREE OF LEGAL	*	Case No.: _____
GENDER IDENTITY	*	

* * * * *

**MOTION FOR WAIVER OF PUBLICATION OR, IN THE ALTERNATIVE, FOR
NOTICE BY POSTING**

Petitioner, [CURRENT LEGAL NAME], by and through undersigned counsel, and pursuant to Maryland Rule 15-901(e)(2), hereby moves for an Order waiving publication requirements. In support of this request, Petitioner states as follows:

1. Maryland Rule 15-901(e)(2) states that an action to change a name must be published in a newspaper, “unless the court on motion of the petitioner orders otherwise...” Indeed, the Attorney General opined that a court “may waive publication on motion of *any* petitioner, whether an adult seeking a personal name change or a parent seeking to have the name of a minor child changed...”¹

2. Petitioner is [A TRANSGENDER MAN/A TRANSGENDER WOMAN/NONBINARY]. [*** USE ALTERNATELY ***] Transgender individuals are those whose gender identity and/or expression differs from the sex they were assigned at birth. [*** OR ***] Nonbinary individuals are those who experience their gender identity and/or expression as falling outside the categories of male and female. Nonbinary individuals are included within the broader transgender community, which includes those whose gender

¹ 82 Md. Op. Att’y Gen. 44, 44 (1997) (emphasis added).

identity and/or gender expression differs from the sex they were assigned at birth.²

3. Petitioner requests waiver of publication in this case for two reasons. First, publication would make Petitioner's transgender status conspicuous, thus increasing the Petitioner's risk of being targeted for discrimination, harassment, and physical and sexual assault. Second, publication would pose a financial hardship to Petitioner, who is indigent.

4. People who are transgender are routinely targeted for discrimination, harassment, and physical and sexual assault. According to the 2015 U.S. Trans Survey, a survey conducted in 2015 that is the most comprehensive survey of the United States transgender community to date, over half of respondents who held a job in the past year indicated that they had to hide their transgender status at work to avoid discrimination in the past year, and over 20% reported firing or other employment-related mistreatment at work in the past year because they were transgender.³ Thirty percent of all respondents reported that they had experienced housing discrimination or homelessness in the past year because of their transgender status.⁴ Large percentages of transgender people report being subjected to harassment and even physical assault when their transgender status is made known at work, in educational settings, and in places of public accommodation.⁵

² See GLAAD, "GLAAD Media Reference Guide – Transgender," *available at* <https://www.glaad.org/reference/transgender> (last visited 12/26/19).

³ James, S. E., *et al.*, THE REPORT OF THE 2015 U.S. TRANSGENDER SURVEY at 151, 154 (National Center for Transgender Equality 2016), *available at* <http://www.transequality.org/sites/default/files/docs/USTS-Full-Report-FINAL.PDF>.

⁴ *Id.* at 178.

⁵ *Id.* at 153 (15% of respondents who held a job in past year reported being verbally harassed, physically attacked, and/or sexually assaulted at work in the past year because of their transgender status); 136 (24% of respondents who attended college or vocational school reported being verbally, physically, or sexually harassed at school because of their transgender status when their gender identity was known to classmates, professors or staff); 213 (31% of respondents who visited a place of public accommodation in the past year where

5. **[* IF APPLICABLE *]** Because Petitioner seeks to change **[HIS/HER/THEIR]** name from a traditionally **[FEMININE/ MASCULINE]** first name **[("CURRENT LEGAL NAME")]** to a traditionally **[MASCULINE/ FEMININE]** first name **[("NAME-TO-BE")]**, publication in this case would effectively "out" petitioner and publish **[HIS/ HER/THEIR]** transgender status in a newspaper of general circulation. Newspaper legal classified advertisements are routinely published concurrently on the internet, and so publication would have the effect of creating a permanent digital record effectively exposing Petitioner's transgender status to anyone with an internet connection who performs a "Google" search for **[HIS/HER/THEIR]** name.

6. Additionally, Petitioner requests waiver of publication on the ground of financial hardship. Waiver of publication may be granted "because the petitioner is unable to afford the cost of publication."⁶

7. Petitioner is indigent. The monthly income for Petitioner's entire household, consisting of **[SIZE OF HOUSEHOLD]**, consists of **[X]** dollars **[(\$XXXX.00)]** in employment income. Petitioner has signed an affidavit attesting to their indigence, which is hereto attached as Exhibit 1.

8. Petitioner is represented by pro bono counsel retained through FreeState Justice, an organization that receives funding from Maryland Legal Services Corporation to provide

staff or employees realized they were transgender experienced at least one type of negative experience due to their gender identity, including being denied equal treatment or service (14%), verbally harassed (24%), and/or physically attacked (2%); 89-90 (as a result of showing identification with a name or gender that did not match their gender presentation, 32% reported a negative experience, including verbal harassment (25%), denial of service (16%), and assault (2%)).

⁶ 82 Md. Op. Att'y Gen. at 47 (citing Rules Committee minutes).

civil legal services on behalf of low-income persons. Petitioner meets FreeState Justice's financial eligibility criteria for pro-bono representation.

9. Publication of notice of a change of name routinely costs between \$50 and \$150 (depending on the publication). As Petitioner's income falls within the eligibility guidelines for pro-bono representation, this cost would pose a hardship to Petitioner.

10. For some of the same reasons, Petitioner has also moved to seal the record in this case. In the event that the Court grants Petitioner's motion to seal, waiver of publication should necessarily follow, because publication of the case is fundamentally incompatible with sealing it from public view.

11. In the alternative, if the Court does not seal the case and does not waive publication entirely, the court "may order any other means of notice that it deems appropriate in the circumstances," Md. Rule 2-122(a)(3), rather than newspaper publication.

12. Petitioner thus asks the Court to waive publication altogether or, in the alternative, to allow Petitioner to satisfy the notice requirement via posting, pursuant to Maryland Rule 2-122(a)(1) "by the posting of the notice by the sheriff at the courthouse door or on a bulletin board within its immediate vicinity."

13. When providing notice per Maryland Rule 15-901(e)(2), publication must occur "at least fifteen days before the date specified in the notice for filing an objection to the petition." Accordingly, in the event that the Court orders notice by posting, Petitioner submits that the notice should be placed for 15 days.

14. Additionally, because the Sheriff's fee for posting (\$40-\$60, depending on jurisdiction) would pose a financial hardship, Petitioner respectfully requests that if notice by posting is ordered, that the Court order waiver of the Sheriff's posting fee.

WHEREFORE, Petitioner respectfully prays that this Honorable Court:

- a) Issue an Order waiving the publication requirements, and
- b) Grant such other and further relief as the nature of the case may require.

OR IN THE ALTERNATIVE

- a) Issue an Order waiving the publication requirements and directing that notice be by posting pursuant to Maryland Rule 2-122 for 15 days;
- b) Issue an Order waiving the Sherriff's fee for posting pursuant to Maryland Rule 2-122; and
- c) Grant such other and further relief as the nature of the case may require.

Respectfully submitted,

Date: [MONTH, DAY, YEAR]

[ATTORNEY NAME], Esq.
[OFFICE TITLE]
[OFFICE ADDRESS]
[OFFICE ADDRESS]
t:[PHONE #]/f:[FAX #]
e:[EMAIL ADDRESS]
Attorney for Petitioner

CERTIFICATE OF SERVICE

I hereby certify that Petitioner is the only party to this action, and therefore that no other party has been served with the foregoing Motion for Waiver of Publication or, in the Alternative, for Notice by Posting.

[ATTORNEY NAME], Esq.

Appendix G6

Proposed Order Waiving Publication

IN THE MATTER OF
[CURRENT LEGAL NAME]
FOR CHANGE OF NAME TO
[NAME-TO-BE]
AND DECREE OF LEGAL
GENDER IDENTITY

* IN THE
* CIRCUIT COURT
* FOR [JURISDICTION]
*
* Case No.: _____
*

* * * * *

ORDER

UPON CONSIDERATION of Petitioner's Motion for Waiver of Publication or, in the alternative, for Notice by Posting, it is on this ____ day of _____, 20__, by the Circuit Court for [JURISDICTION],

ORDERED that:

_____ The requirement that publication be made in a newspaper of general circulation is hereby waived.

_____ The requirement that publication be made in a newspaper of general circulation is hereby waived, and notice shall be given by posting pursuant to Maryland Rule 2-122(a)(1) for 15 days.

_____ The requirement that the Petitioner pay the Sheriff's fee for posting pursuant to Maryland Rule 2-122(a)(1) is hereby waived.

JUDGE
Circuit Court for [JURISDICTION]

Appendix G7

Notice for Posting

IN THE MATTER OF	*	IN THE
[CURRENT LEGAL NAME]	*	CIRCUIT COURT
FOR CHANGE OF NAME TO	*	FOR [JURISDICTION]
[NAME-TO-BE]	*	
AND DECREE OF LEGAL	*	Case No.: _____
GENDER IDENTITY	*	
* * * * *		* * * * * *

NOTICE FOR POSTING

This is to give notice on this ____ day of _____, 20__, that a Petition for Change of Name was filed in the Circuit Court for **[JURISDICTION]** in the above-referenced case, stating in substance that the Petitioner wishes to change their name from **[CURRENT LEGAL NAME]** to **[NAME-TO-BE]** because it is the Petitioner's name of common use.

Notice is hereby issued by the Circuit Court for **[JURISDICTION]** to all interested parties that the relief sought in the aforementioned Petition may be granted, unless cause, if any, be shown, on or before the ____ day of _____, _____ why an Order should not be passed as requested, provided that a copy of this Notice shall be **posted** in the **[JURISDICTION]** Circuit Courthouse for a period of **15 days from the date of entry** of this Notice.

CLERK

Appendix G8

Affidavit of Indigence

IN THE MATTER OF	*	IN THE
[CURRENT LEGAL NAME]	*	CIRCUIT COURT
FOR CHANGE OF NAME TO	*	FOR [JURISDICTION]
[NAME-TO-BE]	*	
AND DECREE OF LEGAL	*	Case No.: _____
GENDER IDENTITY	*	
* * * * *	*	* * * * * *

AFFIDAVIT OF INDIGENCE AND FACTS

1. I am over 18 and competent to testify to the facts contained herein.
2. I am indigent and am unable pay the court costs associated with this action.
3. There **[IS/ARE]** **[X]** **[MEMBER/MEMBERS]** of my household.
4. My household's sole income consists of **[SOURCE OF INCOME]** in the total amount of **[\$X.XX]** per month.
5. I do not own any real property or have any additional assets besides my personal effects.
6. All facts contained in the Petition for Change of Name and Motion for Waiver of Publication or, in the alternative, for Notice by Posting are verified.

I, **[CURRENT LEGAL NAME]**, the undersigned Petitioner, do solemnly affirm under the penalties of perjury and upon personal knowledge that the contents of the foregoing paper are true.

Date

[CURRENT LEGAL NAME]

Appendix G9

Proposed Name Change Decree

IN THE MATTER OF

[CURRENT LEGAL NAME]

FOR CHANGE OF NAME TO

[NAME-TO-BE]

AND DECREE OF LEGAL

GENDER IDENTITY

* IN THE

* CIRCUIT COURT

* FOR **[JURISDICTION]**

*

* Case No.: _____

*

* * * * *

DECREE FOR CHANGE OF NAME

Upon consideration of the verified Petition to Change of Name and exhibits, it is, this
____ day of _____, 20__ by the Circuit Court for **[JURISDICTION]**,

ORDERED that the Petitioner's name be, and hereby is, changed from **[CURRENT
LEGAL NAME]** to **[NAME-TO-BE]**.

JUDGE

Circuit Court for **[JURISDICTION]**

Appendix G10

**Proposed Decree of Legal Gender
Identity (Born in Maryland)**

IN THE MATTER OF	*	IN THE
[CURRENT LEGAL NAME]	*	CIRCUIT COURT
FOR CHANGE OF NAME TO	*	FOR [JURISDICTION]
[NAME-TO-BE]	*	
AND DECREE OF LEGAL	*	Case No.: _____
GENDER IDENTITY	*	
* * * * *	* *	* * * * *

ORDER

UPON consideration of Petitioner’s Motion for Summary Judgment, it is this
 _____ day of _____, 201____, by the Circuit Court for **[JURISDICTION]**,

FOUND that on Petitioner’s certificate of birth issued by the State of Maryland,
 petitioner’s sex was designated as **[FEMALE/MALE]**; and it is further

FOUND that Petitioner has undergone treatment appropriate for the purpose of sex
 transition from **[FEMALE/MALE]** to **[MALE/FEMALE/NONBINARY]** based on
 generally accepted medical standards; and it is further

ORDERED, that Petitioner’s Motion for Summary Judgment is GRANTED; and it is
 further

ORDERED, that judgment in Petitioner’s favor as to Petitioner’s Petition for Decree
 of Legal Gender Identity is GRANTED; and it is further

FOUND and ORDERED that for all legal purposes, Petitioner is
[MALE/FEMALE/NONBINARY].

 JUDGE
 Circuit Court for **[JURISDICTION]**

Appendix G11

**Proposed Decree of Legal Gender
Identity (Born out of state)**

IN THE MATTER OF	*	IN THE
[CURRENT LEGAL NAME]	*	CIRCUIT COURT
FOR CHANGE OF NAME TO	*	FOR [JURISDICTION]
[NAME-TO-BE]	*	
AND DECREE OF LEGAL	*	Case No.: _____
GENDER IDENTITY	*	
* * * * *	*	* * * * * *

ORDER

UPON consideration of the Petition for Change of Legal Gender Identity, it is this _____ day of _____, 201__, by the Circuit Court for **[COUNTY]**, Maryland

FOUND that on Petitioner’s certificate of birth issued by the State of **[STATE ISSUING BIRTH CERTIFICATE]**, Petitioner’s sex was designated as **[MALE/FEMALE]**; and it is further

FOUND that Petitioner has **[* IN ALTERNATIVE *]** undergone treatment appropriate for the purpose of sex transition from **[MALE/FEMALE]** to **[MALE/FEMALE/NONBINARY]** based on generally accepted medical standards **[* OR *]** **[STATE-SPECIFIC LANGUAGE – see NCTE ID Documents Center]**; and it is further

ORDERED, that Petitioner’s Motion for Summary Judgment is GRANTED; and it is further

ORDERED, that Petitioner’s Petition for Change of Legal Gender Identity is GRANTED; and it is further

ORDERED, that the **[DEPARTMENT OF AGENCY ISSUING BIRTH CERTIFICATES]** of the **[AGENCY ISSUING BIRTH CERTIFICATES]** is authorized to update its record of Petitioner’s birth accordingly; and it is further

FOUND and ORDERED that for all legal purposes, Petitioner is **[MALE/FEMALE/NONBINARY]**.

JUDGE
Circuit Court for **[COUNTY]**, Maryland

Appendix G12

Proposed Order Sealing Case Record

IN THE MATTER OF	*	IN THE
[CURRENT LEGAL NAME]	*	CIRCUIT COURT
FOR CHANGE OF NAME TO	*	FOR [JURISDICTION]
[NAME-TO-BE]	*	
AND DECREE OF LEGAL	*	Case No.: _____
GENDER IDENTITY	*	

* * * * *

FINAL ORDER SEALING CASE RECORD

Upon consideration of Petitioner’s Motion to Seal or Otherwise Limit Inspection of Case Record (“Motion”), pursuant to Maryland Rule 16-912(d), it is, this _____ day of _____, 201____, by the Circuit Court for **[JURISDICTION]**, Maryland,

FOUND that:

1. Petitioner has been given the “opportunity for a full adversary hearing” under Maryland Rule 16-912(d)(1), and a hearing has been waived by Petitioner pursuant to Maryland Rule 16-912(d)(6); Petitioner is the only party to this action and thus there is no “adversary” in this case.
2. This Order is based on the averment of the Verified Petition filed by Petitioner in this matter under oath, as well as argument in Petitioner’s Motion.
3. Pursuant to Maryland Rule 16-912(d)(5)(A), there is a special and compelling reason that the case record in this matter should properly be subject to a final order precluding or limiting inspection, in that:
 - a. Maryland Rule 16-907, which establishes certain classes of case records that are subject to mandatory denial of public inspection, requires a clerk to deny inspection of any “case record, other than an autopsy report of a

medical examiner, that (A) consists of a medical or psychological report or record from a hospital, physician, psychologist, or other professional health care provider, and (b) contains medical or psychological information about an individual.” Md. Rule 16-907(j)(1).

- b. Exhibit 2 to the Verified Petition in this case consists of a report of Petitioner’s health care provider, sworn under penalty of perjury, containing medical information about Petitioner; thus, Exhibit 2 to the Verified Petition is subject to mandatory sealing under Maryland Rule 16-907(j)(1).
- c. The information contained in Exhibit 2 forms the gravamen of Count II of the Verified Petition and is quoted expressly in the Verified Petition. If the Verified Petition were not also sealed, the contents of Exhibit 2 would be effectively disclosed to public view.
- d. Based on survey data and argument presented by Petitioner, if Petitioner’s identity were disclosed to the general public in the context of the subject matter of this case, Petitioner would be at a heightened risk of discrimination, harassment, and violence.

- 4. An order finally sealing from public inspection all records in this case that contain Petitioner’s name or address is “as narrow as practicable in scope and duration to effectuate the interest sought to be protected by the order,” pursuant to Maryland Rule 16-912(d)(3).

ACCORDINGLY, it is therefore ORDERED:

(1) Petitioner's Motion to Seal or Otherwise Limit Inspection of Case Record is GRANTED;

(2) The Clerk of this Court shall SHIELD from public inspection all records in the above-captioned matter, including search results on the Maryland Judiciary Case Search website, at the time directed in Paragraph (3) below; and

(3) Petitioner and undersigned counsel are hereby authorized to access the case file at any time, including after final disposition and case closure; and

(4) The shielding of this case from public inspection directed in Paragraph (2) above shall take place (check one):

☐ Immediately; OR

☐ Upon expiration of the notice period for the name change; and the Clerk shall temporarily shield the file from public electronic access only (i.e. Maryland Judiciary Case Search) pending resolution of the name change.

JUDGE
Circuit Court for [JURISDICTION]

Appendix G13

Provider Affidavit Template

IN THE MATTER OF	*	IN THE
[CURRENT LEGAL NAME]	*	CIRCUIT COURT
FOR CHANGE OF NAME TO	*	FOR [JURISDICTION]
[NAME-TO-BE]	*	
AND DECREE OF LEGAL	*	Case No.: _____
GENDER IDENTITY	*	

* * * * * * * * * * * *

AFFIDAVIT OF [PROVIDER NAME, QUALIFYING CREDENTIALS]

1. I am over 18 and competent to testify to the facts contained herein.
2. I, **[PROVIDER NAME, QUALIFYING CREDENTIALS]** am a **[SCOPE OF PRACTICE]** with **[ANY BOARD CERTIFICATIONS IF APPLICABLE]**. I earned **[COLLEGIATE, GRADUATE, and POST-GRADUATE DEGREES WHERE APPROPRIATE AS WELL AS WELL AS CORRESPONDING INSTITUTIONS]**. My medical license number is **[#]**. – find license number at www.mbp.state.md.us/bpqapp/
3. I have been practicing as a **[POSITION TITLE]** with **[ORGANIZATION NAME]** since **[YEAR or MONTH YEAR]**.
4. The World Professional Association for Transgender Health (WPATH) publishes Standards of Care for the Health of Transsexual, Transgender, and Gender Nonconforming People to provide clinical guidance for health professionals to assist transsexual, transgender, and gender nonconforming people. The WPATH Standards of Care include primary care, gynecologic and urologic care, reproductive options, voice and communication therapy, mental health services, and hormonal and surgical treatments.

5. I utilize the WPATH Standards of Care guidelines in treating transsexual, transgender, and gender nonconforming patients. I practice within the WPATH Standards of Care and am familiar with its guidance.
6. The Petitioner, **[CURRENT LEGAL NAME]**, DOB **[MONTH/DAY/YEAR]**, is currently under my care **[OR WAS UNDER MY CARE FROM TIMEFRAME TO TIMEFRAME]**.
7. Consistent with the WPATH Standards of Care, I have provided the Petitioner with clinical treatment for the purpose of sex transition **[OR CONDUCTED AN EXAMINATION WHERE I OBSERVED THEIR TREATMENT IN RELATION TO SEX TRANSITION]** from **[MALE TO FEMALE or FEMALE TO MALE]**.
8. Based on the treatment that the Petitioner has undergone, it is my professional opinion, to a reasonable degree of medical certainty, that Petitioner's treatment is appropriate for Petitioner's individual clinical needs, based on generally accepted medical standards (the WPATH Standards of Care), and that the Petitioner's gender is **[MALE OR FEMALE]** and should be recognized as such for all purposes.

Date: _____
[MONTH DAY, YEAR] _____
[PROVIDER NAME, CREDENTIALS]

As witness, my hand and notarial seal.

Printed

3

Appendix G14
Statement in Support of
Waiver of Prepaid Costs



☐ CIRCUIT COURT ☐ DISTRICT COURT OF MARYLAND FOR _____
City/County

Located at _____ Case No. _____
Court Address

IN THE MATTER OF: _____ VS. _____
Petitioner/Plaintiff Respondent/Defendant

**STATEMENT IN SUPPORT OF WAIVER OF PREPAID COSTS BY CLERK
(Md. Rule 1-325)**

Please be advised that I, _____, am representing the
Name of Attorney
following person, _____ in this matter on behalf of:
Name of Party

- ☐ Maryland Legal Aid
☐ the Office of the Public Defender
☐ the following Maryland legal services provider: _____
Name of Organization/Program

That organization receives funding from or has otherwise been approved by the Maryland Legal Services Corporation to provide civil legal services on behalf of low-income persons. My client meets the financial eligibility criteria of the Corporation, and payment of filing fees or other court costs related to this matter is not required under the Prisoner Litigation Act, Maryland Code, Courts Article, §5-1002.

Therefore, in accordance with Maryland Rule 1-325(d), my client is entitled to an automatic waiver of prepaid costs.

I certify that to the best of my knowledge, information, and belief, there is a good ground for this claim, application, or request for process, and it is not interposed for any improper purpose or delay; or

☐ I am representing this client on behalf of the Office of the Public Defender which is required by statute to provide representation in this matter.

On behalf of: _____
Name of Party

Attorney Signature

Attorney Name

Address

City, State, Zip

Telephone / Fax

E-mail

Date

Appendix H1

Attorney Application



Pro Bono Attorney Application

We thank you for your interest in providing legal services! Please fill out the following information and e-mail it to **C.P. Hoffman** at cphoffman@freestate-justice.org or mail this form to us at:

FreeState Justice
2526 St. Paul Street
Baltimore, MD 21218

Name: _____

Firm: _____

Address: _____

Office Phone: _____ Cell Phone: _____

Email: _____

Date of Admission to the Maryland Bar: _____

I speak the following languages (other than English) well enough to communicate with clients:

I prefer to accept cases in the following counties (please check all that apply):

Alleghany	<input type="checkbox"/>
Anne Arundel	<input type="checkbox"/>
Baltimore City	<input type="checkbox"/>
Baltimore County	<input type="checkbox"/>
Calvert	<input type="checkbox"/>
Caroline	<input type="checkbox"/>
Carroll	<input type="checkbox"/>
Cecil	<input type="checkbox"/>
Charles	<input type="checkbox"/>
Dorchester	<input type="checkbox"/>
Frederick	<input type="checkbox"/>
Garrett	<input type="checkbox"/>

Harford	<input type="checkbox"/>
Howard	<input type="checkbox"/>
Kent	<input type="checkbox"/>
Montgomery	<input type="checkbox"/>
Prince George's	<input type="checkbox"/>
Queen Anne's	<input type="checkbox"/>
St. Mary's	<input type="checkbox"/>
Somerset	<input type="checkbox"/>
Talbot	<input type="checkbox"/>
Washington	<input type="checkbox"/>
Wicomico	<input type="checkbox"/>
Worcester	<input type="checkbox"/>

We try to connect clients with attorneys based on the attorney's preferred topic area. If you would like to try a case in an area of law that is new to you, we can match you an experienced attorney who can provide guidance or co-counseling. Please let us know the following for the following topic areas:

- Cases you will **accept** – cases you can take without needing assistance
- Cases you will accept, but **need a mentor** – cases you are interested in taking, but are not in your experience area
- Case topics you can **mentor** – cases in which you would feel comfortable advising a less-experienced attorney.

Accept Need Can
Cases Mentor Mentor

**NAME CHANGES
& PETITIONS FOR
DECREE OF LEGAL
GENDER**

Name Change Petitions			
Petitions for Decree of Legal Gender			
Joint Petitions for Change of Name and Decree of Legal Gender			

FAMILY LAW

Abuse/Domestic Violence			
Child Adoption			
Child Custody/Visitation/Support			
Divorce and Civil Union Dissolution			

**SMALL ESTATES &
TRUST LAW**

Advance Directive			
Power of Attorney			
Wills			

**ANTI-
DISCRIMINATION
LAW**

Educational Settings			
Employment			
Healthcare/Insurance			
Housing			
Public Accommodations			

OTHER

Assault/Hate Crime			
Prisoner's Rights			

Other (Please list): _____



FreeState Pro Bono Attorney Agreement

By signing this document, I agree to the following:

1. I am admitted to practice law in the state of Maryland, and am currently a member of the bar in good standing. I have not been disciplined by the Attorney Grievance Commission, nor am I currently the subject of a grievance proceeding.
2. FreeState does not discriminate against, and, in fact, celebrates the differences among members of staff, volunteers, and clients, including, but not limited to, those related to sexual orientation, gender identity, race, sex, ethnicity, religion, national origin and disability.
3. I understand that in order to join the FreeState Pro Bono Panel, I must agree to the following conditions for accepting a referral:
 - a. I shall assist the client with the matter within the assigned Scope of Representation, and the term of the pro bono representation shall be the period necessary to fulfill the Scope of the Representation, as defined in the client representation agreement.
 - b. Pro bono clients shall not be charged any fee for my time spent on the Scope of Representation.
 - c. I shall keep records of my time working for the client, which time will be reported to FreeState.
 - d. I shall consult regularly with the client and will notify the client of significant developments.
 - e. I acknowledge that I am subject to the Maryland Lawyers' Rules of Professional Conduct and the terms of this agreement shall be interpreted consistently with the requirements of those Rules.
 - f. I will notify FreeState at the termination of pro bono representation with the outcome of the representation and complete a satisfaction survey, which is necessary for FreeState's funding purposes.
 - g. While providing services for the client, I will be covered by FreeState's malpractice insurance, which has a limit of \$1,000,000.
 - h. It is expressly understood that this Agreement represents the entire agreement between myself and FreeState and supersedes all previous oral and written agreements, and may not be modified except by amendment in writing signed by all parties. No oral agreement or representation shall be binding.

Signature: _____

FreeState Signature: _____

Name (Print): _____

FreeState Name: C.P. Hoffman

Date: _____

Date: _____

Appendix H2

Engagement Agreement



PRO BONO LEGAL SERVICES ENGAGEMENT AGREEMENT

Client Name: [Name]

Client Matter: [Case Description]

In accepting the above-referenced pro bono case matter from FreeState Justice (“FreeState”), I agree to the following:

Timing for Representation Agreement; Procedural Guidance

Should I determine, upon consultation with the client, that I can represent the client in the referred matter, I will promptly execute a representation agreement with the client, but in any event not later than fourteen (14) days after the date the case is referred to me by FreeState. I agree to promptly e-mail FreeState a PDF copy of this engagement agreement within seven (7) days of receiving it from FreeState as well as a copy of a fully executed representation agreement between myself and the client within seven (7) days of its execution.

Initial Meeting with Client; Scope of Representation

At my first meeting with the client, I will review the procedural steps involved in the scope of representation, answer any questions the client may have, and ensure that they understand fully the lifecycle of the case. I will direct any questions I cannot answer to FreeState staff for prompt resolution and provide that information to the client as soon as possible.

My representation shall be for the period necessary to fulfill the scope of the representation stated in the Representation Agreement. I understand that I may not terminate representation of the client after a Representation Agreement has been executed unless I have good cause to do so. In any event, I will not terminate representation of the client without first discussing it with a FreeState attorney and giving the client a reasonable amount of time to cure the circumstances that have given rise to the cause for termination of representation.

I agree to diligently and expeditiously effect the Scope of Representation. If I am representing the client in a name change and/or gender identity matter, I agree to promptly prepare all filings using the pleading templates provided by FreeState and file them with the appropriate Maryland State Circuit Court within thirty (30) days of our initial client meeting.

Conflicts of Interest

I understand that if I discover a conflict of interest at any time during my representation of the client, FreeState will accept return of the client’s matter for referral to another attorney or in-house representation.

Fees; Court Costs; Reimbursement

The client shall not be charged any fee for my time spent on the Scope of Representation or any expense incurred in relation to the Scope of Representation. I understand that I must file a Statement in Support of Waiver of Prepaid Costs (found here: <https://mdcourts.gov/sites/default/files/import/courtforms/joint/ccdc088.pdf>) in lieu of a filing fee with the appropriate Maryland State Circuit Court and that FreeState is not responsible to reimburse any filing fees incurred for failure to submit this form with the court filing. Should a court seek final payment of court fees and costs after the client's case is disposed of, I understand that I am responsible to file a Motion to Waive Final Court Costs and Fees, a template of which I may obtain from FreeState staff.

I understand that FreeState is not responsible to reimburse any costs incurred during the course of this representation and that I may seek reimbursement through the Litigation Fund administered by the Pro Bono Resource Center of Maryland ("PBRC"). I understand that FreeState cannot guarantee that the Litigation Fund will fulfill my reimbursement requests, but can merely provide information on how to seek reimbursement upon request.

Reporting Case-related Data for Grant Reporting; Communications

I shall keep accurate records of my time working for the client, and report this time to FreeState upon request. I understand that FreeState must produce case specific data to the Maryland Legal Services Corporation ("MLSC") and other funders in order to retain funding, and I will cooperate with their attempts to collect information pertaining to this representation, including being responsive to email, phone calls, and requests for completion of case status update forms.

I shall consult regularly with the client and will promptly notify the client of any significant developments in their case. I shall provide FreeState with a copy of all pleadings filed in this matter via email as scanned PDF files.

Court Appearances

If a hearing or other court proceeding is scheduled for any matter, I will notify both the client and FreeState no later than three (3) business days after receiving notice of said hearing or proceeding.

If a hearing or other court proceeding is scheduled for any matter, I agree to consult with FreeState about case strategy in response. I understand and agree that FreeState staff attorneys may enter their appearance in this matter as lead counsel should FreeState believe it to be in the client's best interest. I will cooperate in any joint representation leading up to any hearing or court proceeding. .

While FreeState may, in its discretion, assist me by providing support in preparation for or at court proceedings involving this matter, I understand that I am ultimately solely responsible to provide representation at any proceedings ordered by a court.

Case Closure

I will notify FreeState via e-mail that my representation of the client is complete not later than fourteen (14) days after a resolution of the case (whether by court order, settlement, or other action). I also agree to promptly provide to FreeState a report on the outcome of the case and complete a

case closure and attorney satisfaction survey, both of which are necessary for FreeState's reporting requirements to its funders.

Malpractice Insurance Coverage

While representing the client, I understand that I will be covered by FreeState's malpractice insurance policy, which has a limit of \$1,000,000.

Income Eligibility of Client

I understand that FreeState has made good faith efforts to ensure that clients referred meet the pro bono income guidelines. Should I discover, during the course of my contact with the client, that the client is no longer eligible to receive pro bono legal services under the attached MLSC Income Eligibility Guidelines, I will immediately inform FreeState's staff. Pro bono counsel is not required to disclose confidential income information about their client in this instance, but must promptly communicate their client's ineligibility to FreeState staff.

Listserv Conduct

I will direct all requests for mentorship and guidance directly to FreeState staff and will not post any case related questions or information on any public forum, listserv, or external email chain. FreeState will promptly respond to requests for assistance or guidance.

Change in Contact Information

If my contact information changes, I will immediately notify my client and FreeState. I will return all contact attempts from FreeState and my client within three (3) business days of their receipt.

Upholding FreeState's Mission

I agree to uphold the mission of FreeState to improve the lives of low-income LGBTQ Marylanders, and will be cordial, professional, affirming, and respectful during the course of my representation. Should FreeState discover that my conduct is unprofessional, disrespectful, dilatory, unethical, homophobic, transphobic, racist, or otherwise conflicts with FreeState's values or mission, I understand that I may be subject to removal from FreeState's Pro Bono Panel. Specifically, I will use the appropriate pronouns when referring to my client, will not request private health information, such as whether the client has undergone transition-related surgery, unless absolutely necessary, and will not disclose the client's gender identity or sexual orientation to anyone without their express consent and only when it is necessary to effect the Scope of Representation.

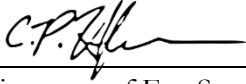
Ethical Misconduct

I understand that my failing to respond to my client or FreeState's requests for reasonable information pertaining to my representation, or engaging in any other unethical conduct proscribed by the Maryland Rules of Professional Conduct, may result in FreeState referring my client to the Maryland Attorney Grievance Commission.

I agree to notify FreeState immediately if I am suspended, disbarred, or placed on inactive status from the practice of law in the state of Maryland or any other jurisdiction, or have any other grievance findings against me.

Integration Clause

It is expressly understood that this Agreement represents the entire agreement between myself and FreeState and supersedes all previous oral and written agreements, and may not be modified except by amendment in writing signed by all parties. No oral agreement or representation shall be binding on either party.



Signature of FreeState Justice Attorney

Signature of Pro Bono Panel Attorney

C.P. Hoffman

Printed Name of FreeState Attorney

Printed Name of Pro Bono Panel Attorney

[Date]

Date

Date

Appendix H3

Attorney Referral Notice



Pro Bono Attorney Referral Notice

Thank you for agreeing to provide pro bono legal services through FreeState Justice! Below you can find the contact information for the client you have agreed to represent. Please reach out to them within ten days to introduce yourself and let them know that you are working on your case. Note that your client will be separately notified they have been assigned to you, so do not be surprised if they reach out to you first.

If you have any questions about the pro bono process, do not hesitate to contact FreeState Justice's Pro Bono Coordinator, C.P. Hoffman, at cphoffman@freestate-justice.org or at 410-625-5428 ext. 16.

Referral information

Date of referral: _____

FreeState Applicant Referred: _____

Applicant's legal matter: _____

Applicant's Address: _____

Applicant Phone: _____

Applicant Email: _____

Attorney information

*** please let us know if your contact information has changed*

Attorney Name: _____

Attorney Firm/Business: _____

Attorney Address: _____

Attorney Phone: _____

Attorney Email: _____

Appendix H4

Client Referral Notice



Pro Bono Referral Notice

Congratulations! Your application for legal services through FreeState Justice has been approved and your case has been placed with an attorney who will represent you in your legal matter on a pro bono basis (for free)! Below you can find the contact information for your attorney. Your pro bono attorney should reach out to you within the next ten days to introduce themselves and discuss your case.

Date of referral: _____ Applicant notified via: _____
Client Name: _____
Client Address: _____

Client Phone: _____
Client Email: _____

When you meet with your attorney, you will discuss the following legal matter:

The attorney will contact you on or before this date: _____

If you do not hear from your pro bono attorney by this date, you may contact FreeState Justice's Pro Bono Coordinator, C.P. Hoffman, at cphoffman@freestate-justice.org or at 410-625-5428. Note, though, that once your case has been placed with a pro bono attorney, they should be your first point of contact for updates about your case and related questions.

Attorney information

Attorney Name: _____
Attorney Firm/Business: _____
Attorney Address: _____

Attorney Phone: _____
Attorney Email: _____

Attached, please find a set of expectations for clients who use our pro bono services.



GUIDELINES FOR FREESTATE PRO BONO SERVICE RECIPIENTS

By meeting with the pro bono attorney assigned to you by FreeState Justice you agree to the following statements:

1. I understand that the attorney assigned to me will not charge me for his or her services; however, I may be responsible for paying any non-waivable court costs or other costs that may arise in connection with my case.
2. I understand that the attorney I have been referred to will review my case. The attorney may refuse to take the case if he/she determines that the case has no merit, the attorney has a conflict of interest, or that accepting the case is against the law or the Maryland Rules of Professional Responsibility.
3. I understand that after the attorney accepts my case, my relationship with my attorney will be governed by the agreement between myself and my attorney.
4. I understand that the referral to this attorney only covers the legal matter described in my referral letter. The attorney may not help me with additional legal matters not mentioned in the letter unless the attorney specifically agrees to do so.
5. I agree to fully cooperate with the attorney assigned to me, including:
 - a. responding to the attorney's emails, letters and phone calls;
 - b. providing accurate and truthful information to the attorney when it is requested;
 - c. and reviewing and signing necessary documents given to you by the attorney, such as contracts, releases, etc.
6. I have the right to terminate my agreement with the attorney at any time and for any reason. However, I will notify my attorney and FreeState Justice if I decide I no longer want legal services or if my legal situation changes so that I no longer need legal services. Withdrawing from representation without notice may impact my ability to receive future legal services from FreeState Justice.
7. I consent to let my attorney provide limited information about the status and outcome of my legal matter to FreeState Justice for the purpose of updating FreeState's files and reporting statistical data to its funders.
8. I will complete and return a confidential client satisfaction survey that will be sent to me by FreeState Justice at the conclusion of my legal matter.
9. I understand that my attorney does not work for FreeState Justice. I understand that FreeState Justice made a good faith effort to refer me to a qualified attorney to help me with my legal matter, and I will not hold FreeState responsible for any and all claims, losses, and liability arising out of this referral.

Appendix H5

Pro Bono Panel Cases Status Update

Form (sample)



2526 SAINT PAUL STREET
BALTIMORE, MD 21218
TEL (410) 625-LGBT (5428)
FAX (410) 625-7423
www.freestate-justice.org

Pro Bono Panel Case Status Update Form

Please complete this form and return via email to skish@freestate-justice.org by Friday January 10, 2020.

Client Name: _____ **Attorney Name:** _____

Case Status: Open Closed

Date of case closure (if applicable): _____

If CLOSED, what was the final disposition?

Note: If the case is closed, please *also* complete and return the attached *Case Closure Report/Attorney Survey*.

Case Type: Petition for Change of Name and/or Decree of Legal Gender Identity
 Family Law
 Employment Law/Discrimination
 Education Discrimination
 Wills & Estates
 Prisoner's Rights/Conditions of Confinement
 Immigration/Asylum
 Other

Hours Worked from July 1, 2018 through December 31, 2019:

- _____ Approximate number of hours you worked on case
- _____ Approximate number of hours any paralegals worked on case
- _____ Approximate number of hours non-paralegal support staff worked on case

FreeState Justice, Inc. (formerly FreeState Legal Project, Inc., merging with Equality Maryland) is a social justice organization that works through direct legal services, legislative and policy advocacy, and community engagement to enable Marylanders across the spectrum of lesbian, gay, bisexual, transgender, and queer identities to be free to live authentically, with safety and dignity, in all communities throughout our state.

Please describe the current status of the case in a short statement:

What was your last date of contact with your client? _____

Has your or your client's contact information changed recently?

Do you need any assistance with your case? If so, what?

Additional Comments or Concerns:

If you have any questions or concerns, please contact C.P. Hoffman at 410-625-5428, ext. 16, or by email at cphoffman@freestate-justice.org.

Appendix H6

**Case Closure Report and Attorney
Satisfaction Survey**



CASE CLOSED

FreeState Justice is required to furnish to its grantors and the Court of Appeals information about closed pro bono cases referred to attorneys in private practice. Your completion of this form, including the approximate number of hours spent and the result achieved, will help us comply with grant requirements and will ensure that you receive recognition for the services you performed.

Attorney _____ Date _____

Client _____

1. Reason case closed: (circle one)

- | | |
|--|---------------------------------------|
| A. Advice and brief service (under 30 minutes) | H. Administrative agency decision |
| B. Counseling | I. Uncontested court decision |
| C. Referral to other agency | J. Contested court decision |
| D. Insufficient merit to proceed | K. Appeals |
| E. Client withdrew, did not return | L. Change of eligibility status |
| F. Negotiated settlement (without litigation) | M. Other: _____ |
| G. Negotiated settlement (with litigation) | N. Extensive services (over 20 hours) |
- Please explain in comments section*

2. Brief summary of the legal issues and the results achieved:

3. Attorney hours at closure: _____ Paralegal hours at closure: _____

4. Total dollar value of services: _____

5. Comments:

Would you like us to feature this case/client in a FreeState newsletter or annual report?

Yes No



ATTORNEY SATISFACTION SURVEY

Thank you for taking the time to answer the following questions. Your response will help FreeState provide necessary information for our funders and improve our service.

Please email to cphoffman@freestate-justice.org or return by mail to:

C.P. Hoffman, Esq.
FreeState Justice
2526 Saint Paul Street
Baltimore, Maryland 21218

1. I was very satisfied satisfied unsatisfied with the referral process.
2. I did did not find the training helpful.
3. I did did not receive the support I needed from FreeState.
4. I would would not take another *pro bono* client referral from FreeState.
5. I would recommend would not recommend that attorneys I know provide services to FreeState *pro bono* clients.
6. One thing that FreeState did well:

7. One thing that FreeState could improve upon:

Please use additional pages if necessary.